

Do you have any idea when I would be through?

MR. GREENSPAHN: Your Honor, I would be in a better position to advise the Court and the witness at the end of the lunch break.

THE COURT: All right, sir. Fine.

THE WITNESS: Very good. Thank you.

(Witness excused)

THE COURT: Call your next witness, please.

THEREUPON--

JOHN JAIDINGER,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: 5719 West Bernice,
Chicago. Self-employed manufacturer.

DIRECT EXAMINATION

BY MR. MORRIS:

Q Please state your full name.

A John Jaidinger.

Q How long have you been so employed,

Jaidinger - direct

Mr. Jaidinger?

A About nineteen years.

Q What is the nature of your business, sir?

A Manufacturer of relays and switches.

MR. MORRIS: Will you mark this as a Government's exhibit for identification?

(Thereupon the documents referred to were marked as Government's Exhibits Nos. 46 and 47 for identification.)

BY MR. MORRIS:

Q Mr. Jaidinger, I show you Government's Exhibits 46 and 47 for identification and ask you whether you can identify them.

A I can.

Q Mr. Jaidinger, are these records which are kept by your firm in the normal course of your business?

A Yes, sir.

Q Is it the normal course of business for your firm to keep records such as this?

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U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Jaidinger - direct

A Yes, sir.

Q Are you a custodian of these records?

A Yes.

Q Were they taken from the place where they are usually kept?

A Yes, sir.

Q Were they made and kept at or about the time that they purport?

A Yes.

Q Could you explain any markings or symbols on the documents which are not readily apparent? Just answer yes or no, please.

A Yes.

MR. MORRIS: I will offer these as Exhibits 46 and 47 in evidence.

MR. GREENSPAHN: Your Honor, they are not material and they are not relevant.

MR. MORRIS: They will be connected up.

MR. GREENSPAHN: And there has been no foundation and he has shown no connection.

MR. MORRIS: They will be connected up.

THE COURT: Let me look at them.

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U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Jaidinger - direct

MR. GREENSPAHN: And also one of these two documents is not the best evidence. It is obviously a copy and not the original.

THE COURT: This one, I assume, is what counsel is talking about. I don't know whether it is a copy or that it was made at the time the original was made or what. There is no evidence in here about that at all.

BY MR. MORRIS:

Q The one which is identified as a packing slip, how is that maintained? Where is the original?

A The original is usually sent to the customer.

THE COURT: This is a copy of the original?

THE WITNESS: This would be our copy.

THE COURT: Well, so far as I am concerned, they have not been identified with any of these defendants at the present time. Upon the Government's assurance that they will be connected up, I am going to overrule the objection and permit them to

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U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Jaidinger - direct

be received in evidence as Government's Exhibits 46 and 47. But if they are not connected, then I am going to strike them from the record.

(Thereupon the documents referred to were received in evidence as Government's Exhibits 46 and 47.)

BY MR. MORRIS:

Q Mr. Jaidinger, I show you Government's Exhibit No. 47 and ask you what that is.

A This is a reply to a letter previously where they had inquired about the price of--

MR. GREENSPAHN: Objection.

THE COURT: I will sustain the objection to it.

THE WITNESS: They were inquiring about the price.

THE COURT: I have sustained the objection to it, sir. You shall not testify until such time as you are asked another question.

BY MR. MORRIS:

Q I show you Exhibit 46 and ask you what that is, sir.

Jaidinger - direct

A. A copy of an original--

THE COURT: He has testified it is a copy of an original record. The original went with this document. Both documents, so far as I am concerned, are self-explanatory and I do not want any further questions about them unless it is necessary to connect them up with some individual or to explain something on there that is not evident to persons of ordinary intelligence. This jury is above ordinary intelligence, and I do not want to waste their time with a lot of useless questions about what that says.

MR. MORRIS: Your Honor, I would like for the witness to explain what the order is for, what the items are.

THE COURT: He can explain what a relay switch is and what it is for, et cetera. That is all right.

BY MR. MORRIS:

Q Would you explain the entry here which says "100 OHM" et cetera?

A. That designates the resistance of the winding on this particular relay that was purchased.

Jaidinger - direct

Q What is a relay, sir?

A A relay is a remote control or an electrically controlled switch.

Q What is it used for?

A Electronic circuits, for controlling other functions.

MR. MORRIS: Will you please mark this for identification?

(Thereupon the device referred to was marked as Government's Exhibit No. 48 for identification.)

BY MR. MORRIS:

Q I show you Government's Exhibit for Identification No.48 and ask you whether you can identify this object.

A I see our relay in here. This is ours.

Q The small piece is the relay?

A Yes.

Q Is that the same as the items that are described on this packing slip?

A Right.

Jaidinger - cross

MR. MORRIS: You may inquire.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Is there a description for the type of relay that you have identified as Exhibit 48 for identification?

A It is referred to as our Gem relay, a radio-controlled relay, model control.

Q I was sitting at some distance from you. Is that what you are talking about?

A Yes, sir.

Q This piece here?

A Yes, sir.

Q What are the markings on it?

A "JAICO." That is a shortening of our name--Jaidinger Manufacturing Company. We have literature that we have copies of here.

Q That is an identifying feature as to your product?

A Yes, sir.

Q In the calendar year of 1968, how many of these relay devices were manufactured by your

Jaidinger - cross

company?

A Oh, probably in the neighborhood of--
do you mean on this type?

Q No, sir. In toto, how many?

THE COURT: First of all, in your
opinion--

THE WITNESS: Probably in five thousand
or ten thousand quantity.

BY MR. GREENSPAHN:

Q How do you market your products?
Do you have distributors?

A No. We sell outside of this particular
relay. We used to sell to the distributors. Since
the transitors came in, it kind of cut down on the
sales of the relay itself.

Q Are you one of the principal
manufacturers in the midwest of this type of relay?

A Yes.

Q Are there manufacturers throughout the
country other than in the midwest that manufacture
this type of relay?

A Not exactly like that, no.

Jaidinger - cross

Q Is this a patented device? Is this something you hold a patent on?

A It is not exactly patented, no.

Q Are there any outlets for the sale of relays of this type in the South Florida area that you are aware of?

A Not that I am aware of. We haven't sold to any distributors for some time now. We get all inquiries directly to the factory.

Q By mail?

A By mail and telephone if it is local.

Q Do you always make a note of such telephone inquiries as well as those received in the mail?

A Not telephone inquiries.

Q Did you review your packing slips for the calendar year 1967 and 1968 to determine how many of this type of relay were shipped out and to what places in the United States they were shipped?

A No.

Q This relay that you have identified, then, is not unique? This is not one of a kind?

Jaidinger - cross

A What do you mean by "not one of a kind"?

Q There are some five thousand or ten thousand of them manufactured by you, a good many of which have been either delivered or shipped to places in the United States?

A Yes.

Q Relays can be used for many electronic purposes?

A Right.

Q They are found very often, are they not, for instance, in mechanical toys?

A Yes, although we don't make them for toys. These relays are too expensive.

Q What do you make them for?

A Garage door openers is one big item-- radio-controlled garage door openers.

Q What else?

A In some cases we don't even really know what they are being used for, because of secrecy.

Q Do you sell them to the United States Government?

Jaidinger - cross

A No, not really, no, not that I know of. In a few instances we have sold them for some products they have for a moon--I don't know exactly what they were used for at all.

Q Were they shipped to Florida, to Cape Canaveral or in or about the Florida area?

A No. We occasionally sell some to the airplane manufacturers like Boeing, but it has been some time.

Q Are these relays identifiable each from the other, or are they identifiable only as being of your manufacture?

A This particular type we identify as a radio-controlled relay because of the shape of the contacts, the moving contacts in it, and also by checking the resistance of the coil.

Q I am not referring to the mechanical--

THE COURT: What he is talking about is this: Suppose we say you make a hundred of them at one time. Can you pick out any one of that hundred at a later time and say "This is one of the hundred that we manufactured or that we sold for that particular

Jaidinger - cross

firm"?

THE WITNESS: No.

THE COURT: That is what you are asking for?

MR. GREENSPAHN: Precisely, your Honor.

A No, we can't do that.

BY MR. GREENSPAHN:

Q Did you check your records for any further documents pertaining to the transaction that is set forth in the two documentary exhibits that you brought with you?

A I did.

Q Did you determine whether or not payment had been made??

A Yes.

Q Did you determine the manner and method of payment?

A It was a money order. I have all the records here.

Q May I see them, sir?

A This is the entry into the routing slip.

Jaidinger - cross

This is the letter which we received the check in.

Q Did you retain the envelope of the letter dated March 4, 1968?

A No. What we usually do on that, a letter comes in for one or a dozen relays. I just mark the price on it and send it back right on the letter.

Q Directing your attention, sir, to Government's Exhibit No. 47, the letter of March 4, 1968, is this the original that was received by you?

A A copy of the original.

Q Where is the original? You can look at it more closely to determine if you are right about that.

A This is a copy of the original. Now, the gentleman that called on me--I gave the original to Mr. Philip Tracy, Jr., of the FBI, and I made a copy to retain for our own files.

Q What you are showing me is a photostatic copy?

A A photocopy of the original. And the FBI office has the original.

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U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Jaidinger - cross

Q Mr. Jaidinger, referring to Government's Exhibit No. 47 which I hold here, is this the original or not?

A No, that would not be the original.

MR. GREENSPAHN: Your Honor, I then move to strike it from the evidence and ask that the Clerk be directed to strike it from his exhibit list. The original obviously is in the possession of the Government and this is not the original.

THE COURT: What do you say?

MR. BIERMAN: Your Honor, this is the original.

THE COURT: Let me look at it.

MR. BIERMAN: It has been processed since Mr. Jaidinger has seen it. It has been processed for fingerprints. That is why he does not recognize it. But that is the original. The signature is written in ink.

MR. GREENSPAHN: It looks like an original, but the testimony is that is not the original letter.

MR. BIERMAN: We still have some

Jaidinger - cross

redirect available, your Honor.

THE COURT: All right, sir. I will reserve ruling on the motion at the present time.

MR. GREENSPAHN: Thank you, sir.

BY MR. GREENSPAHN:

Q Mr. Jaidinger, you have handed me what purports to be your complete office records relative to the transaction which we are now discussing. Would you, sir, tell me what this instrument is that I am showing you?

A This has nothing to do with the--these are different deposits that were made on this particular day--Transmarine, Victor Comptometer, and the other one is from Teresa Caballero.

Q So that the exhibits that I referred to has nothing to do with this?

A This is the c.o.d. tag. No. This is for Transmarine. That has nothing to do with it. This is information that my wife took down after the money order came in, the number of it, and this is all we got to keep.

Q To your present knowledge, were any of

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U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Jaidinger - cross

the shipments that are reflected in your banking records for the type of relay that we have seen, other than the one that is referred to, in the packing slip or any other document?

A How do you mean?

Q Referring to Victor Comptometer and Transmarine, did any of those relays get sent to them, for instance, or any of them on the same day?

A No. This wouldn't indicate the shipping date. These are the checks we collected for the two or three days and we put it in the deposit slip and it was taken to the bank.

Q Do you know of your own knowledge whether or not slips were made on the same day of the shipment as the identified shipment to any other sources other than the one that is referred to in Exhibit 47?

A The shipment was made on March 4th.

Q On that date were shipments of these relays made to other places and other companies and other persons?

A I couldn't say whether it was the same

Jaidinger - cross
type relays that were made on that particular day.
I would have to go through all our records.

MR. GREENSPAHN: That is all I have,
sir. Thank you.

REDIRECT EXAMINATION

BY MR. BIERMAN:

Q Mr. Jaidinger, I would like you to
carefully examine what has been marked Government's
Exhibit No. 47 and compare it with the copy which
you retained and determined, sir, other than the
purple markings on here--first of all, do you know
how these purple markings came on here?

A No, I don't.

Q All you know is that you surrendered
the original?

A And Mr. Tracy signed it that he
received it.

Q Would you examine this document, sir,
and note the signatures other than the stamp which
the Clerk has put on, particularly here and--

A It is identical to what I have here.

Q But, sir, other than the purple markings,

Jaidinger - redirect

are you able to determine if that is an original or a duplicate?

A Well, I don't know what the discoloring is.

Q Other than the coloring--

THE COURT: Forget about that.

THE WITNESS: Other than the coloring, I would say it's the original.

THE COURT: Look at the writing and any other things. What he is asking you now--just forget it has all those markings on it. Look at it, look at the typewriting.

THE WITNESS: I would say it is the original. This is the one I surrendered.

THE COURT: All right, sir.

I will deny the motion to strike.

MR. BIERMAN: I have nothing further.

MR. GREENSPAHN: Your Honor, may I be extended the courtesy of one moment, please?

THE COURT: Yes, sir.

RECROSS EXAMINATION

BY MR. GREENSPAHN:

Q From the time that Government's Exhibit

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U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Jaidinger - recross

No. 47 was received by your company until the time it was transmitted to Agent Tracy of the FBI, how many people actually handled the instrument?

A Three at the most.

Q Are your people required to be fingerprinted for the Federal authorities because of any work you may do for the Federal Government?

A No.

MR. GREENSPAHN: I have nothing further. Thank you.

THE COURT: All right, sir. Thank you. You may be excused.

(Witness excused)

THEREUPON--

MARGARETTA CABALLERO,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified through the interpreter (Raphael M. Campi)
as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: Margaretta Caballero,

Caballero - direct.

3650 Northwest 18th Terrace. My occupation is medical technologist.

DIRECT EXAMINATION

BY MR. MORRIS:

Q Mrs. Caballero, do you speak English fluently or would you be better off to have an interpreter translate my questions and your answers?

A I think it is better if I got an interpreter.

Q Mrs. Caballero, are you acquainted with the defendant Orlando Bosch Avila?

A Yes.

Q How long have you known Dr. Bosch?

A All my life.

Q Do you consider him a friend of yours?

A Yes.

Q I show you Government's Exhibit 47 and ask you whether or not you have seen that before.

A I saw it here when it was shown to me.

Q Did you write that letter?

A No.

Q Directing your attention to the month

Caballero - direct

of April of this year or in that vicinity of time, did you have occasion to see and talk with Dr. Bosch?

A I have seen him on different occasions.

Q In the month of April did you have occasion to discuss with Dr. Bosch a package?

A Yes.

Q Would you relate that discussion, please?

MR. GREENSPAHN: Your Honor, a proper foundation must be laid for this line of questioning as to where and when.

THE COURT: I agree with you. Where, when and who was present?

BY MR. MORRIS:

Q Will you state where this particular conversation took place?

A At the Riverside Post Office.

Q When, as best you remember?

A The first months of the year--March or April.

Q Would you please relate that discussion?

A He asked me if he could use the post

Caballer o - direct
office box. I said yes.

Q For what purpose?

A I didn't ask him.

Q Did you subsequently receive a package?

A Yes.

Q What did you do with it?

A I put it in the car until I saw him.

Q Then what did you do with it?

A I gave it to him.

Q When you say "him" are you referring to
Dr. Bosch?

A Dr. Bosch.

Q Would you describe that package,
please.

A A small box. I did not open it.

Q About how many inches in dimension?

A About four by three inches.

13-2 THE COURT: Did the box have any
return address on it that you could see?

THE WITNESS: I don't recall.

BY MR. MORRIS:

Q Mrs. Caballero, have you ever ordered

Caballero - direct

any merchandise from the Jaidinger Manufacturing Company?

A I don't remember.

THE COURT: Maybe if you tell her what they sell she might be able to remember.

BY MR. MORRIS:

Q Have you ever ordered any electronic equipment or relay devices from the Jaidinger Manufacturing Company?

A No.

MR.MORRIS: You may inquire.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Did Dr. Bosch ever indicate to you that his mail was being opened and that is why he wanted you to let him use your box?

A No.

MR. GREENSPAHN: I have nothing else.

REDIRECT EXAMINATION

BY MR. MORRIS:

Q What is your post office box number?

A 715.

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U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

MR. MORRIS: No further questions.

THE COURT: All right, ma'am. Thank you. You may be excused.

(Witness excused)

THEREUPON--

JAMES P. DONNELLY,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: James P. Donnelly,
4850 Piety Drive, New Orleans, Louisiana. Customs
Marine Officer, Port of New Orleans.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q What is the nature of your work,
Mr. Donnelly?

A I work in the Customs House, and the
various vessel agents bring the master or one of the
officers from the ship in to make formal entry and
to clear vessels in and out of the Port of New Orleans.

Q Do you, sir, then keep records of all

Donnelly - direct
vessels which enter the Port of New Orleans?

A Yes, that's right.

Q Did you bring, sir, certain of these documents with you?

A Yes, I did.

Q Would you produce them?

A (Producing documents) This is the entrance and clearance on the LANCASTRIAN PRINCE.

Q Referring to the documents which you just handed me, which are Government's Exhibit No. 49 for identification, are these documents kept in the regular course of business, sir?

A Yes, that's right.

Q Is it the regular course of business to keep such documents?

A Yes.

Q Are you a custodian of these documents?

A Yes, I am.

Q As to the events reflected on there, were they recorded on or about the time that they reflect?

A Yes, that's correct.

Donnelly - direct

Q Were they removed from the files by you, sir?

A Yes, I personally.

Q Would you, sir, explain to us what Government's Exhibit 49 is?

A Well, these--

MR. BIERMAN: I will offer Government's Exhibit 49 into evidence, your Honor, subject to connecting it up.

MR. GREENSPAHN: I object because I haven't got the slightest idea what they are.

THE COURT: All right, sir. You take a look at them and we will see.

Are documents of this nature required by law to be made and given to customs or are they prepared by customs and kept as part of the official records?

THE WITNESS: Well, these are made up on the ship and then they are submitted to us.

THE COURT: I did not ask you where they were made up. I asked is there any law or regulation which requires documents like these to be

Donnelly - direct
made and given to Customs?

THE WITNESS: Yes. The Customs
regulations require it.

BY MR. BIERMAN:

Q Did you personally receive these
particular documents, sir?

A Yes, I did.

MR. GREENSPAHN: I object as not
relevant or material, your Honor.

THE COURT: All right, sir. Subject
to their being connected up, I will admit them upon
the basis that they are official documents.

(Thereupon the instruments
referred to were received in
evidence as Government's
Exhibit No. 49.)

BY MR. BIERMAN:

Q From these documents can you determine
when the vessel LANCASTRIAN PRINCE was in the Port of
New Orleans?

A Yes, sir, I can.

Q When was that, sir?

Donnelly - direct

A August 23, 1968.

Q How long did it remain?

A Well, they cleared the following day, the 24th, and they are permitted forty-eight hours after that to leave.

Q So then, sir, your testimony is she was there on the 23rd and the 24th and sometime within the next forty-eight hours, insofar as you know?

A Yes, that's right.

Q Do you know where the ship was coming from, sir?

A Yes. Coming from Houston, Texas.

MR. BIERMAN: I have nothing further. You may inquire.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Are you totally familiar with the docking facilities at New Orleans at which the vessel LANCASTRIAN PRINCE was berthed on August 23?

A No, sir. I work in the Customs House. I did not see the vessel.

Q Do you know the area in which the ship

Donnelly - direct

was berthed?

A No.

Q Have you been on the docks in New Orleans?

A At one time I did work on the docks, yes.

Q Do you know what the number of people was that were in and about that vessel during the period of time that it was in New Orleans?

A No, sir, I don't.

THE COURT: Can you tell from these documents--you should be able to--the particular location where this ship was berthed?

THE WITNESS: Yes. It is shown on the information sheet where the vessel was docked.

THE COURT: Looking at that, can you tell us in relation to where that area is with which you are familiar?

THE WITNESS: Yes. It is the Governor Nichols Street Wharf. I am familiar with where that is in relation to the Trade Mart Building.

THE COURT: Is it above or below that?

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U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Donnelly - cross

THE WITNESS: Well, it is down river approximately ten blocks.

THE COURT: Within a block fronting that warehouse there is a big public street, is there not?

THE WITNESS: Yes, sir.

THE COURT: That is what counsel wants to ask you about. Go ahead and ask him.

BY MR. GREENSPAHN:

Q I have no knowledge of the area; so will you describe to me the berthing area of this vessel? Is it in an enclosed area, is it open, how far is it from the street or avenue closest to it? Give us some idea. In other words, what type of area is this?

A Well, the vessels tie up on the Mississippi River. And it is a wide area. I would say it is approximately half a block wide, and it sits back from the thoroughfare.

THE COURT: Well, you have warehouses in between that and the thoroughfare?

THE WITNESS: Yes, sir. You have a

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Donnelly - cross

warehouse area and railroad tracks and then the--

THE COURT: What he wants to know, is it an area where the public can have access or is it fenced in so that nobody can get into it or just what the situation is the best you remember.

THE WITNESS: No, sir. I would say the public could have access to the vessel, although they have guards posted near the gangway so that not everyone can gain access.

BY MR. GREENSPAHN:

Q In that entire wharf area, could you walk up and down?

A Yes.

Q I can get there and drive up in an automobile and walk by between the warehouses and up and down that dock area so far as the dock area is concerned?

A Yes.

Q To your knowledge, were there any crews working on the vessel--and I mean stevedoring or dock workers or crews working on the vessel during the two or three days that it was in that port?

Donnelly - cross

A Yes. They loaded cargo while they were in New Orleans; so they would have stevedores working on the vessel.

Q Does Customs control or secure the area when people are working near or on flagships of foreign countries? In other words, do you have people checking out the people that are going in and about the vessel?

A No, they don't do that.

Q Do you have people checking out the people who are coming off the vessel?

A Yes. The enforcement officers do try to watch that.

Q Would you mind stepping up around and coming over here. Directing your attention to Government Exhibit No. 45, which is the metal canister, noting the size of it, sir, would an object of that shape, either in that form or in a package or carton be permitted aboard a foreign flagship such as the LANCASTRIAN PRINCE without inspection by the Customs officers on duty at the berthing area of the vessel?

A No, sir. I don't believe that they

Donnelly - cross

would.

THE COURT: I believe that the Customs officer would check anything resembling this.

MR. GREENSPAHN: That is all I have, sir. Thank you.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. BIERMAN:

Q Mr. Donnelly, a Customs officer would search or would not search the outside of a ship, would he, or that part that was under water?

A No, sir, unless--

THE COURT: He might if he had some special reason to do it. But normally you would not do it, is that right?

THE WITNESS: Yes, sir, that's right.

BY MR. BIERMAN:

Q I show you a photograph marked Government's Exhibit 50 and ask you, sir, to examine it closely. Are you able to determine, sir, what port this was taken at?

A No, I'm afraid I couldn't identify the

Donnelly - cross

port.

Q Look at the skyline behind it. See if you recognize that.

THE COURT: Let me look at the thing. Go ahead.

BY MR. BIERMAN:

Q Are you able to recognize it?

A No, I'm afraid not.

MR. BIERMAN: I have nothing further.

MR. GREENSPAHN: May I see that photograph?

Is this the LANCASTRIAN PRINCE?

MR. BIERMAN: Yes.

MR. GREENSPAHN: This has not been marked yet, has it?

MR. BIERMAN: It is No. 50 for identification.

MR. GREENSPAHN: Based on your training as a Customs Agent, are you able to indicate to us which is the starboard and which is the port side of the vessel that is depicted in this photograph?

THE WITNESS: No. My work is mainly

Donnelly - cross

I work in the Customs House, and we have very little to do with the vessel itself other than just the papers that are presented.

THE COURT: He will stipulate that the starboard side is the right side looking forward and the port side is the left side looking forward toward the bow of the vessel.

MR. GREENSPAHN: Thank you, sir.
That is all I have.

THE COURT: Thank you, sir. You may be excused.

(Witness excused)

THE COURT: Ladies and gentlemen of the jury, the Court is going to be in recess for about five minutes. During that time, the instructions I have previously given you are, of course, still applicable.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had:)

Siffredo - direct

THEREUPON--

ARMANDO GARCIA SIFFREDO,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified through the interpreter (Raphael M. Campi)
as follows:

THE CLERK: State your name, address
and occupation.

THE WITNESS: Armando Garcia Siffredo,
newspaperman. 3001 Southwest 77th Court.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Mr. Siffredo, what newspaper do you
publish?

A Patria.

Q Do you have with you certain articles
which were published in your newspaper?

A In the citation I received, they asked
me to bring these papers; I have brought them.

Q Are these copies, sir, kept in the
regular course of the business of your newspaper?

A We file all copies of all papers we

Siffredo - direct

edit.

Q Are you the custodian of these files?

A I am the director and editor of the newspaper, but there is a man who is in charge of the files. But everything there is under my command.

Q Are these filed at or about the time they are printed?

A Yes.

Q I call your attention to the edition of June 5, 1968.

A Yes.

Q I call your particular attention to an article which begins "ASUME." It says "Asume la responsabilidad de los atentados dinamiteros a barcos."

A Yes.

Q Would you translate for us what that says, Mr. Siffredo?

MR. GREENSPAHN: If it please the Court--

THE COURT: I am going to sustain the objection.

Siffredo - direct

BY MR. BIERMAN:

Q Are you personally, sir, familiar with the printing of this article? Do you have a personal recollection of this edition?

A Yes.

Q Was this printed under your supervision?

A Yes, sir.

Q Where did you receive the information to print this article?

A I received it by mail.

Q Did this article accurately reflect the information which was given to you?

A Yes.

Q What did you do with the material which was received by you?

A I transferred it to be copied and to be published in the paper.

Q Calling your attention, sir, to two photographs, one in the upper left-hand corner with the words in English "GRANWOOD" and the one lower down with the words "ASAKA MARU," where did you receive these photographs?

Siffredo - direct

A Together with the information.

Q I note, sir, at the bottom of this article is a writing which appears to be in some sort of a script. Was this, sir, on the release which you received?

A That is the signature that appeared in the information I received.

Q How is that signed, sir?

MR. GREENSPAHN: Objection. It is all hearsay and it is all by leading questions. He can try until the cows come home and he is not going to take it out of the hearsay classification.

THE COURT: I am going to sustain the objection.

MR. BIERMAN: Will you mark this, Mr. Clerk, please?

(Thereupon the newspaper referred to was marked as Government's Exhibit No. 51 for identification.)

THE COURT: Not only on the grounds it is hearsay but on the grounds, if it is admissible at all, it shows how it is signed.

Siffredo - direct

BY MR. BIERMAN:

Q All of this testimony which you have just been referring to--this article is found in what has now been marked as Government's Exhibit No. 51 for identification?

A Yes, all that is there.

MR. BIERMAN: Will you mark this as Exhibit No. 52, please?

(Thereupon the newspaper referred to was marked as Government's Exhibit No. 52 for identification.)

BY MR. BIERMAN:

Q I show you what has been marked Government's Exhibit No. 52 for identification and ask you if you are familiar with the article which appears in the left-hand corner "Dinamitado buque merchante japones."

A Yes.

Q Do you have a particular recollection, sir, as to how this article came to be published?

A It was sent by mail.

Q Was the photograph sent with it?

Siffredo - direct

A In the envelope.

Q And the markings, sir, which appear on the top of the photograph--"Foto: Servicio Inteligencia Poder Cubano," were they on there when you received the photograph?

A This came with the photograph.

Q Does this article accurately depict what you received in the mail?

A What I received I published as news.

Q I call your attention to the edition of Wednesday, September 18, 1968, and ask you if you recognize this article in the left-hand corner.

A This is a completely different type of work because the photographs were taken by the newspaper photographer.

Q Did you receive any press releases on this, sir?

A Yes, I did. Ernesto was responsible in the name of Cuban Power.

MR. GREENSPAHN: If it please the Court, I move to strike. There has been no proper foundation laid for it. It again constitutes hearsay

Siffredo - direct

as to any of these defendants, and I would ask that the witness be instructed to respond only to questions and not to go beyond that.

MR. BIERMAN: This goes to claims that were sent into the newspaper which we will tie up with similar news releases that were found.

MR. GREENSPAHN: If it please the Court, it is all immaterial and irrelevant as to these defendants. I can pull out the Miami Herald or the Miami News today and show the Court a thousand and one things that are not material.

THE COURT: Gentlemen, I do not want any argument.

Basically, I will permit you to identify any of these things that you want to. At the present time I am ruling that they are hearsay and that they are not sufficiently connected with these defendants and, therefore, are inadmissible into evidence unless and until some further connection is shown. That will remain my ruling. You may, however, identify each and every one of them if you wish.

Siffredo - direct

BY MR. BIERMAN:

Q I show you what has been marked Government's Exhibit No. 54 for identification and ask you, sir, if you are personally familiar with the article which appears in the right-hand corner.

A Yes, sir.

Q How did that come to be published?

A I found this work in the newspaper office. It had been put through the mail slot in the door.

Q Were the photographs of the vessels included with that?

A Everything was in the envelope.

Q Did you change that in any way from when you received it?

A No, I did not change anything and it is conceded here that this are the declarations of the organization that sent it.

Q I show you, sir, what has been marked Government's Exhibit No. 55 for identification and ask you if you recognize this.

A What part?

Siffredo - direct

Q This article.

A Yes, I do.

Q How did that article come to be published?

A I received this notice from the newspapers from Puerto Rico, but not from any organization.

Q Showing you Government's Exhibit No. 56, the article in the lower right-hand half.

A This is a piece of news that was sent to the newspaper by mail by the organization.

Q In the same manner that you received the others?

A More or less the same; always the same system.

Q Were you ever informed, sir, who was sending these to you?

A No.

Q Did you ever give these original photographs to anyone?

A They were requested from me by the FBI.

Siffredo - direct

Q Did you turn them over?

A Yes, sir.

Q I show you what has been marked Government's Exhibit No. 57 for identification and ask you if that is one of the photographs?

A Yes, sir.

Q Did this typewriting appear on it at the time that you received it?

A Yes, sir.

Q I show you what has been marked Government's Exhibit No. 58 for identification and ask you if you recognize that, sir.

A Yes, I do.

Q When and where did you first see that?

A This is one which I published.

Q Is this one that you described as receiving it in the mail?

A Yes. This was requested from me by a member of the FBI who came to my office. It had been published.

Q And you recognize this particular document which is Government's Exhibit 58?

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Siffredo - direct

A Yes.

Q Did this signature at the bottom appear that way when you received it?

A Yes, sir.

Q Did you receive this similar signature on any other document?

A Yes, I did; and I published them, also.

MR. BIERMAN: I have nothing further.

THE COURT: All right, sir. Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q With regard to these various documents to which you have referred, sir, of your own knowledge do you know if any other persons or businesses received copies of those very same documents?

A Other newspapers received it and radio newscasts.

Q This was, then, what might be referred to as a press release, is that right?

A Exactly.

Siffredo - cross

Q Mr. Garcia Siffredo, do you know personally any of the nine defendants?

A Yes, sir.

Q Who do you know?

A Dr. Orlando Bosch, Gutierrez, Jorge Gonzalez whom I know about twenty years from Cuba. By sight I also know the one who is seated behind Orlando Bosch.

Q With particular regard to Dr. Bosch, do you know of your own knowledge and based upon your own investigations of him as to whether or not he has been an exemplary leader in the Cuban exile colony?

MR. BIERMAN: I will object.

THE COURT: I will sustain the objection to that question. That is not the proper foundation for general reputation.

MR. BIERMAN: May I ask that the jury be instructed to disregard that question?

THE COURT: All right, sir.

Ladies and gentlemen of the jury, that question has been objected to and I have sustained

Siffredo - cross

the objection. You will please disregard it.

BY MR. GREENSPAHN:

Q Are you aware, sir, of the reputation within the community--and particularly within the Spanish-speaking community of Dade County--as to the reputation of Orlando Bosch?

THE COURT: As to what?

BY MR. GREENSPAHN:

Q As to his veracity, credibility, and as to his sincerity?

MR. BIERMAN: Your Honor, this is quite a bit beyond the scope of direct examination.

THE COURT: Yes, sir. I agree with you.

MR. GREENSPAHN: I will withdraw the question.

THE COURT: All right, sir.

MR. GREENSPAHN: I have no further questions.

THE COURT: Redirect?

MR. BIERMAN: No questions.

THE COURT: All right, sir. Thank you.

LEONARD LAIKEN

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U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

You may be excused.

(Witness excused)

THE COURT: Ladies and gentlemen of the jury, I am going to recess for a little bit longer today. I am going to recess until 1:45. During the recess, of course, the instructions I have given you will be applicable.

You may be excused until 1:45.

(Thereupon the jury was excused, pursuant to which the following proceedings were had outside of the presence of the jury:)

THE COURT: Will counsel approach the Bench, please?

Gentlemen, if counsel desires to present any arguments to me with respect to the admissibility of these matters, I will be glad to hear from you at 1:30 for the purpose of hearing any argument which might be directed to the admissibility of the news articles and the letters, et cetera, and any argument defense counsel wants to make in opposition to the Government's position.

I have tentatively ruled upon the

documents, but I will be perfectly willing to listen to any arguments that counsel may have.

So Court will be in recess until 1:30. We will resume at 1:45 with the taking of testimony.

MR. BIERMAN: We have prepared, for the purposes of argument, a translation of these articles. We gave a copy to counsel or we will give a copy to counsel and a copy to the Court around 1:30 or as soon as we have it prepared.

THE COURT: I am not so concerned with the contents except as they relate to what has been put in evidence, which might render them admissible, if they are admissible.

MR. BIERMAN: All right, sir.

THE COURT: I think I appreciate what the Government's position will be, but I want to hear argument before I pass on it.

We will be in recess until 1:30.

(Thereupon at 12:00 o'clock noon,
the hearing was recessed to
reconvene at 1:30 o'clock p.m.)

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14-1

AFTERNOON SESSION

(Thereupon the hearing
reconvened at 1:30 o'clock
p.m., pursuant to prior
recess.)

THE COURT: You may proceed.

MR. BIERMAN: Your Honor, in regard to the articles which have been introduced and identified, we would admit that the contents of the articles are as they were described to Morales, that he says that Orlando Bosch told him that he had sent press releases about these articles. In addition, the witness testified that he reprinted releases which were signed "Ernesto" and one of them he identified. We will have some additional testimony--referring to the one he identified as No. 58--

THE COURT: I know the one you are talking about.

MR. BIERMAN: We will have additional testimony relating to the searches of the home of Orlando Bosch and the car, and among that material was the original release signed "Ernesto" in the same fashion as this, with the "E" curled around. We

also have testimony, as the Court will recall, from the gentleman from Western Union identifying Orlando Bosch as bringing in three telegrams using the name "Ernesto, General Delegate of Cuban Power," and we would submit that these are statements of Ernesto and that Orlando Bosch has been identified as Ernesto.

In addition, one of these photographs on here has written on it "Intelligence Service of Cuban Power," and an identical photograph with the same thing written across the top of it was found in the house of Orlando Bosch. And in addition, the photographer from Patria, who also does freelance photography and did the developing, will testify that he developed a number of these photographs and they were given to him and sent to him by someone referred to as "The Doctor," and that he believes that to be Dr. Bosch and had done some work for him.

THE COURT: I would not admit that testimony.

MR. BIERMAN: I beg your pardon?

THE COURT: In my opinion, it is not admissible. I could have called him up and said, "I am the doctor."

MR. BIERMAN: But he knows him.

THE COURT: If he can identify his voice and say that he knows that the person who he was speaking to and that he recognizes the voice, that is one thing. But somebody else just calling up and saying "This is the doctor" or "This is Bosch" doesn't mean a thing in the world without any further identification.

MR. BIERMAN: In regard to the ruling, I would say that the testimony of Garcia on that could be disregarded. It is not particularly strong.

THE COURT: I don't believe that there has been a sufficient foundation to this time.

Now, with respect to the other testimony that the Government has, with the release, perhaps, as you say, that they have been found in his home, or with an identification of the type or some other matter that would tie it in directly to Dr. Bosch, I do not believe that a sufficient foundation has been laid, because my analysis of this testimony at the present time, so far as any connection with these defendants is concerned, is that it could have been anybody in the world and not these defendants. So

unless there is a better connection, I am going to exclude them from the evidence because again, as I say, I could have written this thing and signed "Ernesto" to it. That does not mean that this gentleman over here did it. The mere fact that the name is signed to it; the mere fact that there may have been some releases made, unless it can be connected in a more definite manner, then so far as I am concerned, I am ruling at the present time that there has been no sufficient foundation laid for the introduction of these articles into evidence.

You do not want to make any argument, do you, Mr. Greenspahn?

MR. GREENSPAHN: No, sir. I stand well satisfied with the Court's statement. However, I would have one motion while we are waiting.

The Government has handed me this morning the laboratory reports from the Federal Bureau of Investigation. I presume they are going to call this witness this afternoon. Apparently there is a palm print or four palm prints involved. I would like photographs of them if the Government has them, and I presume that they do have them. I would like to have

them so I can take them from this courtroom this afternoon when I leave.

THE COURT: Can you furnish copies so that he can take them? I assume he wants them for the purpose of having some analyses made. I think he is certainly entitled to that.

MR. BIERMAN: Yes, sir.

THE COURT: So if you will turn them over to counsel so that he can take them with him I would appreciate it.

MR. BIERMAN: I think our laboratory man went to lunch. As soon as he returns, I will give him those.

THE COURT: All right, sir.

MR. BIERMAN: We have an additional instruction which I have given a copy of to counsel.

THE COURT: All right. Give it to Mr. Block over there and give counsel a copy.

Is there anything else at this time?

(No response)

Gentlemen, the jury is supposed to be back at 1:45. That is the reason I am asking. Is there anything else or shall we recess for the time

being?

MR. GREENSPAHN: Yes, sir.

THE COURT: You do not have anything else?

MR. BIERMAN: We do have one additional item. We would offer into evidence the Spanish registration of the vessel COROMOTO. This is under the same type of seal of the United States Ambassador.

THE COURT: I will note an objection on the part of all the defendants and I will admit it into evidence as an official document.

(Thereupon the instrument referred to was received in evidence as Government's Exhibit No. 59.)

THE COURT: We will be in recess, then, until 1:45.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had:)

THE COURT: Is the Government ready to proceed?

MR. BIERMAN: Yes, your Honor.

THE COURT: You may proceed.

THEREUPON--

ANTONIO GARCIA RUIZ,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full name,
address and occupation.

THE WITNESS: Antonio Garcia Ruiz.
My occupation is press photographer of the newspaper
Patria.

DIRECT EXAMINATION

BY MR. KLEIN:

Q Mr. Garcia, do you do any free-lance
photography work?

A Yes, sir.

Q Mr. Garcia, I am going to show you--

MR. KLEIN: Will the Clerk mark these
as a composite exhibit?

(Thereupon the photographs
referred to were marked as
Government's Composite Exhibit
No. 60 for identification.)

Ruiz - direct

BY MR. KLEIN:

Q I am going to show you what is now marked as Government's Exhibit No. 60 for identification. I will ask you if you have ever seen those before.

A Yes.

Q How did you come to see those, first?

A Somebody go to my home with the negative and ask me if I make--

MR. GREENSPAHN: Objection to it as hearsay, your Honor.

THE COURT: I will sustain the objection.

BY MR. KLEIN:

Q You cannot testify to anything that anybody told you. That is hearsay. The only thing you can testify is what you did and what you saw.

A Well, I have explained the way I--

THE COURT: You told us, I believe, that somebody came to your house and left some negatives there?

THE WITNESS: Yes, sir.

Ruiz - direct

THE COURT: After you got the negatives, what did you do with them?

THE WITNESS: I printing.

THE COURT: You printed them?

THE WITNESS: Yes, sir.

BY MR. KLEIN:

Q Then what did you do with the prints?

A With the prints? I gave it back to the person who give the negative.

THE COURT: Do you know who the person was who gave you the negatives?

THE WITNESS: No, sir.

BY MR. KLEIN:

Q Did you keep any of them for yourself?

A No, sir. Well, I think I have two or three extra copies. So I give the FBI when it was in my home.

Q How about those? How did you get those?

A I can't get the question.

THE COURT: Are those extra copies that you made from the negatives, what you have in your

Ruiz - direct

hand?

THE WITNESS: I leave them right in my home in the--

THE COURT: They are extra copies you made from the negatives?

THE WITNESS: Two or three.

THE COURT: All right.

MR. KLEIN: I would like to offer these into evidence with what I assume will be the same objection, subject to--

THE COURT: Yes, sir. The same ruling will be made.

MR. GREENSPAN: That was almost a valid statement of my position, but I would like to see them before I make an objection.

THE COURT: All right. Yes, sir.

The objection will be sustained subject to a further foundation being laid.

MR. KLEIN: Mr. Clerk, will you please mark these photographs as Government's Composite Exhibit No. 61.

Ruiz - direct

(Thereupon the photographs
referred to were marked as
Government's Composite Exhibit
No. 61 for identification.)

BY MR. KLEIN:

Q I am going to show you now Government's
Exhibit No. 61 for identification. Have you ever
seen those before?

A Yes. I took these pictures.

Q How did you come to take those
pictures?

A Well, I was in my paper, and the
editor told me--

MR. GREENSPAHN: Objection to the
hearsay.

BY MR. KLEIN:

Q Just say what you did. Do not say
anything of what someone else told you.

A How I do it?

Q What did you do?

A When?

Q When you took those pictures.

A When I took them in some house. I don't know--

Q How did you get there?

THE COURT: You were working for the newspaper and you were doing some work for the newspaper?

THE WITNESS: Yes.

THE COURT: Pursuant to instructions from the newspaper, you took those pictures?

THE WITNESS: Yes, sir.

THE COURT: All right, sir.

BY MR. KLEIN:

Q Where did you take them?

A I take it in a small room some place. Some people pick me up and we drive.

Q Where did they pick you up?

A They pick me up in the Sears Store on Coral Way.

Q What did they do with you then?

A The other newspaperman, his name is Anguilo, he opened the door and he says, "Come in, Tony." So I get in. Then we drive for a couple of hours, say--

Ruiz - direct

Q Were you told where you were going?

A No. That is hard because they make a lot of, you know, a lot like I see--I don't remember the place where we go.

Q How long did you ride?

A I would say around maybe two hours, maybe an hour and a half. I don't know exactly.

Q Did you have anything on while you were riding? Did they put anything on you?

A No.

Q Were you blindfolded or could you see?

A No, they don't put nothing. They asked me but I don't--my interest is to go to that place and go take a picture. I am supposed to take a picture of Ernesto. I got no interest in putting anything in my eyes or what place I go--just where I go, the place, and I take a picture like my editor wants.

Q When you got to the house you took these pictures?

A Yes.

Q Are those pictures just like what you

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MIAMI, FLORIDA 33101

Ruiz - direct

saw there?

A Pardon me?

Q Do those pictures look exactly like what you saw at the house?

A Yes.

MR. KLEIN: We will offer these into evidence.

MR. GREENSPAHN: Your Honor, I question the relevancy and the materiality of these photographs.

MR. KLEIN: We will connect them up once again, your Honor.

THE COURT: Well, I think perhaps you had better go ahead and connect them up. In the meantime I am going to sustain the objection to them.
BY MR. KLEIN:

Q When you went there, did you receive anything when you were there?

A What do you mean "receive anything"?

Q Any papers or anything?

A An envelope to the editor with those things on, what you call--

Ruiz - direct

THE COURT: They call that a hood.

THE WITNESS: No, he don't say--somebody was taking pictures only. And they picked up one envelope--I pick up one envelope and give it to my editor Mr. Siffredo.

MR. KLEIN: Nothing further of this witness.

THE COURT: All right. Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Garcia, with reference to the first set of photographs that you identified, these are various developments. How many prints of each photograph did you make?

A I make eight, but I think this: I make two or three extra for the reason every photographer in a darkroom sometimes makes three or four copies extra. So those people, those guys asked me for eight and I give eight. So I threw away on my table the other two or three. I don't remember.

Q Now, after you delivered these

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MIAMI, FLORIDA 33101

Ruiz - direct

photographs to whoever it was that came for them, did you ever see any of these photographs again?

THE COURT: The ones that you gave to the man, did you ever see any of those again?

THE WITNESS: Well, I saw it in the Patria publication.

BY MR. GREENSPAHN:

Q Did you ever see them at any other time?

A No.

Q When you arrived at this place that you told us that you were taken to, what did you see unusual, if anything?

A I can't understand that question.

Q When you went to this house that you were taken to, was there somebody there wearing something over their heads?

A Well, we arrived and we go--I go through like we call a sala, a living room, filled up with newspaper and cameramen, seven or eight there. So when they call me, I go to the very small room--a very small room with one bed, one table with some white

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Ruiz - direct

in there and people with--a person with something over his head.

Q What was over his head?

A It's a black hood, a black hood with two holes in here and one here.

Q Was there at that time anything wrong with your eyesight? Was your eyesight good at that time?

A With what?

Q Your eyesight, your ability to see. Was it all right at that time?

A Well, let me explain this. For taking pictures I need to use them (indicating glasses) because I can't see your face good like this. I need these for looking long distance. So when I take pictures, I use these. So what I am interested in is to focus my camera to take pictures over there.

Q Did you have your glasses on when you were looking at the man wearing the black hood?

A Yes.

Q Could you see him all right?

A Well, I see like everybody.

Ruiz - direct

Q How far away were you sitting from him?

A Well, I'm walking around taking pictures, like all these pictures I show you. Three feet. No more than that.

THE COURT: Were you as far away as the first gentleman sitting there?

THE WITNESS: Five feet, like you are, Judge.

BY MR. GREENSPAHN:

Q Where you and I are?

A It's a very small room; so the newspapermen have to sit down on the floor.

Q How long were you in that room taking pictures?

A I don't stay more than ten minutes or something like that.

Q Mr. Garcia, before all of this, did you know Dr. Orlando Bosch?

A I know him, yes.

Q For how long a period of time have you known him?

Ruiz - direct

A Well, I say more than seven--six or seven or eight years.

Q Did the man in the hood that you referred to at any time say anything?

A He never say anything except the last time he say three words.

Q What did he say?

A He say "Viva Cuba Libre."

Q What does that mean in Spanish?

THE COURT: "Long live Cuba."

A "Long live Cuba."

BY MR. GREENSPAHN:

Q Do you know the voice of Orlando Bosch?

A I think so. Well, let me explain this. He had a very peculiar voice.

Q You are talking about the man in the hood, is that right?

A Yes.

Q Could you identify that voice?

A If he says the same words, yes.

Q Do you know whose voice that was?

Ruiz - direct

A No.

Q Were there any other physical characteristics that you can identify of that man?

A How?

Q Well, I am asking you. You were there.

A (No response)

Q What was in the envelope? What was in the package that you said you took from that place?

A The envelope contained the press release, the same that was published in my paper and every paper in town.

Q What press release was that?

A Patria.

Q What was the press release about?

THE COURT: If you remember. What did the press release talk about?

A Oh, I think that it says he is going to--gee, I don't remember.

BY MR. GREENSPAHN:

Q Do you remember? You do not have to say--

Ruiz - direct

A I'm afraid to say something wrong.

Q Were there any photographs given to the people at that house that night?

A Yes.

Q Along with the press release that night at that house?

A How long I took? No.

Q No. When they gave you the press release which was in this envelope, were there any pictures in there?

A No, no, no. No pictures. Just an envelope.

Q Of your own knowledge, do you know whether or not other persons with the news media-- people with the television, people with the newspapers, people with magazines, whether they received any of these photographs that you took? I do not mean the ones--

A I didn't take that picture you have in your hand.

THE COURT: What he means is the one that you developed from that film.

Ruiz - direct

MR. GREENSPAHN: What I mean, your Honor--

THE COURT: We realize you did not take this. You only had a negative.

THE WITNESS: But you say about this picture.

THE COURT: What he wants to know is whether or not the pictures you made from that negative--do you know whether or not any of these were given to other newspapers or to the radio or TV?

THE WITNESS: I think they did, because I see published a few pictures in the other papers, and I see them in REPLICA, I think, and other Spanish publications here. I don't look for every publication, but I remember that REPLICA. I see one picture in there.

BY MR. GREENSPAHN:

Q Did the man stand up, the man in the hood?

A Yes.

Q He did stand up?

Ruiz - cross

A Yes.

Q Did you see him from the bottom of his shoes to the top of his head standing up?

A Yes, sir.

Q What was his size?

A Well, I'll say--I'm five, five. He's a little shorter than me.

Q Shorter than you, and you are five feet five inches tall?

A That is what I read in the paper--I'm five, five. I'm not sure.

MR. GREENSPAHN: Thank you, Mr. Garcia.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. KLEIN:

Q Mr. Garcia, do you know what was in the press release? Do you recall?

A The envelope? What they have there?

Q Yes.

A The day we meet Ernesto?

Q Yes.

A Well, they have a piece of paper inside.

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OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Ruiz - redirect

THE COURT: What was on the paper?

Do you remember what was on the paper?

THE WITNESS: Inside to the envelope?

THE COURT: Yes, sir.

THE WITNESS: It's like a press release, you know.

THE COURT: That is right. What was it about? Did you read it?

THE WITNESS: No, I don't read it. I read it in my paper the next day, because I have to go to my darkroom to develop quickly because--

THE COURT: All you did, you took it and you took the paper and gave it to the editor?

THE WITNESS: Yes, sir.

THE COURT: All right.

MR. KLEIN: Thank you. I have nothing further.

(Witness excused)

THEREUPON--

TOMAS PEDRO REGALADO,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and

Regalado - direct

testified as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: My name is Tomas Pedro Regalado. My occupation is Latin news editor of WCKT, Channel 7 News, Miami.

DIRECT EXAMINATION

BY MR. KLEIN:

Q Mr. Regalado, I call your attention to September 19, 1968. Do you recall that date?

A I do.

Q Do you recall seeing a man in a hood later on that evening?

A Yes.

Q Would you state how you happened to come to see that man?

A Well, in the morning I received a phone call from--

MR. GREENSPAHN: If the Court please, this again is going to be hearsay.

THE COURT: I will sustain your objection to it if you object to it.

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Regalado - direct

MR. GREENSPAHN: Yes, sir, I do.

BY MR. KLEIN:

Q Just say what you did.

A Well, I was told to be in some place in Sears parking lot at one time that night, and I was picked up and taken to one house, which I don't know which house it was. And then we came into a small living room and into a hall and then to a small room with only a bed and a guy hooded with a black hood on sitting behind a table with white clothes on and with several envelopes in front of him. So we just took the envelopes. I read it and we left.

Q Did the man stand up?

A I recall he didn't stand up, but I didn't quite see it, because my attention was all on that press release.

Q Was he short, did you notice?

A Yes, he was kind of short.

Q Shorter than Dr. Bosch?

A Yes, very shorter than him.

Q I am going to show you what has now been marked as Government's Exhibit No. 62 for

Regalado - direct

identification. Are you familiar with that?

A Yes. That I received through the mail,
I guess.

Q Will you take a look at it?

A Yes.

Q Through the mail?

A Yes, through the mail, I believe.

I am not sure.

MR. KLEIN: I offer this in evidence.

MR. GREENSPAHN: Your Honor, I don't
know what it is because it is in Spanish. But at
this point it is neither material nor relevant nor
shows any connection whatever with any of these
defendants. And it appears also to be a carbon copy.

THE COURT: I am a little bit tired of
these promises of connecting things up and I am going
to hold you to connecting them up. I am going to
sustain the objection until a proper foundation has
been laid.

MR. KLEIN: All right, sir. Then we
would like to recall this witness at another time.

THE COURT: All right. You may recall

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Regalado - direct

him.

MR. KLEIN: I have nothing further.

THE COURT: Do you have any cross examination at this time, Mr. Greenspahn?

MR. GREENSPAHN: No, sir.

THE COURT: I will grant the Government leave to recall this witness for further testimony.

MR. GREENSPAHN: And I will reserve my cross until that time, sir.

THE COURT: You may be temporarily excused, sir. You may have to come back if they ask you to.

THE WITNESS: Okay.

(Witness excused)

14-2

THEREUPON--

THOMAS G. BRODIE,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

Brodie - direct

THE WITNESS: Thomas G. Brodie,
B-r-o-d-i-e, 4646 Southwest 13th Terrace.
Criminalist 2.

DIRECT EXAMINATION

BY MR. MORRIS:

Q Mr. Brodie, how long have you been so
employed?

A I have been with the Public Safety
Department approximately fourteen years.

Q What is the nature of your work there?

A The disposal of explosives and bombs
and the investigations of bombings and explosions and
tool mark identification.

Q Have you had any training in that type
of activity, sir?

A Yes, sir, I have.

Q What is that?

A I have attended several military
explosive ordnance schools. I have studied the
manufacture of explosives at factories. I have gone
to the New York City Bomb Squad for training, and I
have trained under my former boss who formerly did

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Brodie - direct

this work.

Q How many bombs or how many bombings have you had occasion to examine in your career, approximately?

A I have investigated approximately 125 bombings and disposed of over a thousand different bombs.

Q Have you had, during recent months, occasion to examine the vessel LANCASTRIAN PRINCE?

A Yes, I did.

Q Would you relate when and where that occurred and what you observed?

A This was on September 28, approximately two miles east of Government Cut.

Q What did you observe at that time, sir?

A At this time I observed Officer Zehnder of our department swim under the ship and return and he--

Q Did he have anything with him?

A Yes. He gave me the end of a rope.

Q Then what did you do? Did you pull the rope in?

Brodie - direct

A Yes. After Officer Zehnder returned to the surface, I pulled in the rope.

Q What was on the other end of it?

A There was a large metal can with chains attached.

MR. MORRIS: With the permission of the Court, I would like for the witness to come down.

THE COURT: Would you mind stepping down, please, sir, and taking a look at this object that the Government is going to show you.

BY MR. MORRIS:

Q This is Government's Exhibit No. 45. Have you seen that object before?

A Yes, I have.

Q Where and when have you seen it previously?

A That is the object I just referred to that I pulled in on the other end of the rope.

Q Did you place any markings on that object, sir?

A Yes, I did.

Q Which ones?

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Brodie - direct

A (Indicating) Right here on the outside is the case number and my initials.

Q In black letters?

A Yes.

Q Did you place any other markings on the object?

A Yes, sir, I did.

Q What else?

A On the six sticks that were inside.

Q I mean just on this object right now, sir.

A On the lid.

Q I see. Was this lid attached to this object, then, when you found it?

A Yes. It was screwed into the ends.

Q In what way does this object differ in appearance now from when you found it, aside from the markings that you put on it?

A There is a tape on there and also yellow writing.

Q While you are down here, I would like for you to examine these exhibits (referring to

Brodie - direct

Exhibit 45-A).. Would you please examine each one of those and determine whether or not you have seen them before? Did you place any markings on them, if you saw them before?

A Yes, I did.

Q Do you find your markings on the ones that you are looking at now?

A Yes, I do.

Q There are more, I believe, over here?

A Over here.

Q You may resume your seat.

Were you able to determine whether all of those sticks had your marking on them?

A Yes.

Q Where did you find these sticks?

A Those were inside that metal can.

Q Were they in approximately the same condition now as when you found them?

A Approximately, except for discoloration and the tape.

Q Do you know from your own personal experience or knowledge what caused discoloration?

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Brodie - direct

A. No, sir, I don't.

Q I notice this one stick is shorter than the others. Can you state whether or not this is in the same condition as when you found it?

A Yes, it was.

Q Was it that same size when you found it?

A Yes.

MR. MORRIS: Will you mark this for identification, please?

(Thereupon the object referred to was marked as Government's Exhibit No. 64 for identification.)

BY MR. MORRIS:

Q Mr. Brodie, I show you Government's Exhibit No. 64 for identification and ask you if you can identify that, sir.

A No, sir.

Q I show you Government's Exhibit No. 65 for identification and ask you if you can identify that.

Brodie - direct

A Yes, sir.

Q What is that, Mr. Brodie? And when did you see that previously?

A This is a piece of gasket that was inside of the screwed on cover of the can.

Q That was there at the time that you found that?

A Yes, sir.

Q I show you Government's Exhibit No. 66 for identification and ask you if you can identify that.

A Yes.

Q What is that? Did you mark that?

A Yes, I did.

Q Where and when did you see that?

A This was inside of the can, and that was on August 28.

Q The same device that you have identified as coming from the LANCASTRIAN PRINCE?

A Yes.

Q I show you what will be marked Government's Exhibit No. 67 for identification and ask

Brodie - direct

you whether you can identify this.

A Yes, sir.

Q Do you find your marks on there, sir?

A Yes, I do.

Q Where did you find that or when did you last see that?

THE COURT: First, where did you first see it?

BY MR. MORRIS:

Q Where did you first see that?

A This was wadded up. It was inside of the metal can.

Q The same metal can that you had been talking about before?

A Yes.

Q Was it in approximately this condition, sir, at the time that you first observed it?

A It wasn't discolored like that. It was wadded up.

Q Do you know from your own personal knowledge what caused the discoloration in that piece of paper?

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Brodie - direct

A . No, I don't.

Q How about this one?

A Yes.

Q Was that in there, also?

A Yes, it was.

Q Mr. Brodie, I show you Government's Exhibit No. 48 for identification and ask you whether you can identify that.

A Yes, sir, I can.

Q When is the first time you saw that?
When and where?

A This was inside the can when I opened it.

Q Do you know what that is, sir?

A Yes.

Q What is it?

A It is a relay; a battery-powered relay device.

Q Was it connected in any way with any of the other exhibits that you have identified?

A Yes, sir, it was.

Q Would you explain in what manner?

A This was in between pieces of foam

Brodie - direct
rubber and the wadded up newspaper.

THE COURT: The foam rubber you are talking about, is that Exhibit 66, those two pieces of foam rubber that you looked at?

THE WITNESS: Yes, sir.

THE COURT: All right, sir. Go ahead.

BY MR. MORRIS:

Q Go ahead.

A There was a wire that was part of an exploded blasting cap near the broken stick that I identified earlier.

Q The shorter stick of simulated dynamite? Is that the one that you are referring to?

A Yes, sir.

Q So that this then was connected by wire to a blasting cap, is that your testimony?

A An exploded blasting cap.

Q An exploded blasting cap?

A Yes.

Q Do you know how this thing operates? Do you know how it is supposed to function?

A Yes.

Brodie - direct

Q Would you explain it, please?

MR. GREENSPAHN: If it please the Court, I fully accept Captain Brodie's qualifications as an explosives expert, but I question his qualifications as an electronics expert. There has been no foundation yet laid for any testimony relating to an electrical device.

BY MR. MORRIS:

Q Have you had experience with devices of this type?

A This is the first such device.

MR. MORRIS: I will withdraw it.

THE COURT: All right, sir.

MR. MORRIS: Would you mark this for identification, please?

(Thereupon the object referred to was marked as Government's Exhibit No. 68 for identification.)

BY MR. MORRIS:

Q I show you Government's Exhibit No. 68 for identification and ask you whether you can identify

Brodie - direct

that.

A Yes.

Q When is the first time you saw that?

When and where?

A This was attached to the plastic box.

Q Which end of it was attached to the plastic box, sir?

A These wires here were sticking into the box, and they were covered with tape.

Q Where was the other end, sir?

A The other end, which is the exploded blasting cap, was near the broken simulated stick of dynamite.

MR. MORRIS: Your Honor, at this time I would like to offer in evidence Government's Exhibits 40, 45-A, and all of the other items which were contained inside that casing according to Mr. Brodie's testimony.

MR. GREENSPAHN: Your Honor, the same objection holds as before. There are still markings on the large object and on the smaller objects that have not been identified. And at this point there is

Brodie - direct

no relevancy or materiality, there being nothing shown to connect this object with these defendants.

MR. MORRIS: I think there has been a good deal.

THE COURT: Let's not have any argument, gentlemen. I do not want any argument.

What markings are on that canister which have not been explained or identified? Let me come around and look at it.

MR. GREENSPAHN: There are various markings on the canister in discolored yellow paint and you will see there is one here and there are others that are similar to these.

THE COURT: Gentlemen, I am going to overrule the objection. And I am going to admit the objects in evidence with the exception of those markings which have not been explained by any evidence. And I am going to instruct the jury that insofar as those markings are concerned, that is, the yellow lettering, to disregard it completely unless and until there is some evidence to show what significance, if any, it has.

Brodie - direct

(Thereupon the objects referred
to were received in evidence.)

BY MR. MORRIS:

Q Mr. Brodie, have you had occasion to
examine the vessel CARIBBEAN VENTURE?

A Yes, sir, I did.

Q When and where was that, sir?

A On August 8, August 14, 15, August 21.

Q Where, sir?

A At Pier 3 on August 21 I examined the
area where the ship had been.

MR. MORRIS: Will you mark this for
identification?

(Thereupon the object referred
to was marked as Government's
Exhibit No. 69 for identi-
fication.)

BY MR. MORRIS:

Q I show you what is Government's
Exhibit No. 69 for identification and ask you whether
or not you can identify that.

A Yes, I can.

Brodie - direct

Q . When and where did you first see that?

A On August 14th. This was behind the instrument panel in the engine room of the CARIBBEAN VENTURE.

Q What is it? Do you know what it is?

A No, sir. Only through hearsay.

Q Mr. Brodie, have you had occasion to examine the vessel POLANICA?

A Yes, I did.

Q When and where was that?

A That was at the new port in Miami, Dodge Island. I believe it was on September 21 of this year.

Q What did you observe, sir?

A I observed a vessel docked there, and on the port side was a large dent.

Q From your examination were you able to determine what caused the large dent that you referred to?

A I haven't the faintest idea. It was equivalent to approximately a 57 millimeter projectile.

Q Would you be able to specify from your

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Brodie - direct

opinion as to what type of projectile from the 57 millimeter? I understand there are several different types.

A A practice round which had been reloaded with high explosive.

MR. MORRIS: You may inquire.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Brodie, your rank is Captain, is it not, sir?

A I was formerly a captain. Now I am a criminalist 2.

Q That is up a step higher?

A No.

Q I do not mean to embarrass you.

A It is equivalent in salary range, approximately.

Q Mr. Brodie, in the course of your official duties, have you had occasion to investigate a bombing occurring in the City of Miami at Specialized Services Corporation?

A Yes, I did.

Brodie - cross

MR. MORRIS: Your Honor, I object to that. I do not believe it is relevant to this case.

THE COURT: Well, I do not know whether it is relevant or not.

This might not be a bad time, ladies and gentlemen, to let us all take a break. We will take a recess for about five minutes while we go into this matter.

(Thereupon the jury was excused, pursuant to which the following proceedings were had out of the presence of the jury:)

THE COURT: What do you propose to develop by the proposed testimony so far? I will rule that that question and answer are admissible and proper in view of the fact that the witness has testified as to numerous bombings. You can ask him if he investigated specific ones. But beyond that what do you propose to show?

MR. GREENSPAHN: Frankly, I plan to bring out matters and things pertaining to the witness Morales who was before the Court a few days ago. I

Brodie - cross

believe that Mr. Brodie at that time investigated the incident with which Mr. Morales has now been standing charged for some eleven months. Frankly, my whole intent is to go to the credibility of Mr. Morales.

MR. MORRIS: I think that is beyond the scope of the direct, your Honor.

MR. BIERMAN: The Court ruled previously that the extent of the questioning would be whether or not he was under arrest for a felony and any detail of it was not proper examination to go into collaterally with a collateral witness.

THE COURT: That is what I ruled, but my rulings always do not apparently have the ability to maintain rigid limitations.

Now, there has come out in the testimony of Morales the fact that he was connected with a bombing and that he was charged with a bombing. I do not recall whether it came out on some of his direct or some of his cross examination, but certainly that has become apparent and it is part of the record.

MR. BIERMAN: This was brought out in

Brodie - cross

cross examination over our objection, and it was limited to a certain area.

MR. GREENSPAHN: What I propose to the Court is that I will not pursue this line of questioning at this time with Mr. Brodie, and I will conduct my cross examination based solely on the matters of things brought out on direct now, but perhaps it would be wise for me to determine from the Court a ruling so that if I plan to bring Mr. Brodie back as a defense witness to discuss the matter of these Morales bombings, I will know whether his testimony will be permitted or not in that regard.

THE COURT: As I say, it is in the evidence at the present time, at least so far as I am concerned, that Morales was arrested; that he was charged with a bombing, and there was considerable testimony in the transcript of the wire recording about his trial being postponed and continued and all that sort of thing. So that, so far as I am concerned, there is no secret to the jury that, in truth and fact, he has been arrested and charged with a bombing. I let it in although normally, of course, only a

Brodie - cross

conviction and not an arrest would be admissible with respect to going to the credibility of a particular witness.

In this particular case I felt constrained to allow you some latitude, because I think it does go, to some extent, to the credibility of Mr. Morales. And insofar as he is the principal witness on the part of the Government, I propose to allow the defense liberal latitude in cross examining Mr. Morales or in producing impeaching testimony.

I don't know, with the facts before me, as I say, which, so far as I am concerned, are uncontradicted, that anything further will be served. I certainly cannot and I will not permit his guilt or innocence on that charge to be tried in this trial. There is not any doubt, as far as I am concerned, that he had been arrested and he had been charged with a bombing here in Miami. Now, whether you can gain anything more by asking this witness, Mr. Greenspahn, I do not know. So far as I am concerned, as far as any legitimate argument that you may wish to make to the jury on that premise, I will permit you to do it;

Brodie - cross

because the uncontradicted evidence, so far as I am concerned, shows that Morales was arrested and charged with a bombing in this area. And, of course, there is other evidence, as I say, about his trial and it being continued, et cetera. And I further permitted you to go into it because of the possibility of showing a promise or an inducement for him to act or to testify the way he did. As I say, I will permit you to make any legitimate arguments or any possible and proper inferences from these circumstances insofar as argument to the jury is concerned.

Now, with that ruling, I do not know what we can accomplish unless we go into what this man-- For the purpose of this trial, I am not concerned about whether he is guilt or innocent or not, and I do not believe that it would be proper for me to permit that testimony. But I think that you will have, based on what I have already said, all of the latitude that would be desirable to you. I certainly have no intention of preventing you from making an argument based upon what I have said, so far as I am concerned, what the record shows. I do not know what

Brodie - cross

this witness, other than possibly getting into details going to Morales' guilt or innocence, could add to it.

MR. GREENSPAHN: I agree with the Court, your Honor, and I am satisfied with the Court's statement and indication as to final argument on this.

THE COURT: All right, sir. Then we will not go into it.

Frankly, I feel this: I do not feel that it is fair to Morales to go into his guilt or innocence or not, and I think that is probably what this man would do if he has conducted an investigation. He would probably have to tell some of the evidence which he found, certainly, if he went into detail and all. And I just do not think that is a proper thing to do at this time. So I am going to rule, as I have said, that so far as I am concerned, this record shows he was arrested for and charged with a bombing here in the Miami area. There has been considerable conversation in these transcripts about his trial, et cetera, and there was some cross examination on your part as to whether any promise had been made to him, et cetera. And you can take full advantage of that,

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Brodie - cross

so far as I am concerned, in your argument to the jury.

MR. BIERMAN: Your Honor, with the case in that posture, are we then allowed to prove that the charge has very little substance to it?

THE COURT: I am not going to let you any more prove that the man, in your opinion, is innocent than I am now saying that Mr. Greenspahn can prove he is guilty. I am not going to try Mr. Morales. He is not on trial before me. Any question as to his guilt or innocence, so far as I am concerned, has never been decided by anybody. I did think it was relevant and material because of the fact that it went to his possible interest, and also, as counsel has indicated, it might well go to his credibility or his state of mind.

If, for example, he has participated in a bombing here or has been suspected of being implicated in a bombing here, and he, in effect, gets on the stand and says, "I have changed my mind,"--and the substance of his testimony is, as I recall it, that he repeatedly told Dr. Bosch and other people that

Brodie - cross

he felt the proper place to fight Castro was in Cuba and not in the United States; that he was opposed to doing anything in the United States, and when Dr. Bosch told him he had a ship or he was ready to go to Cuba and he would be the first one to go but he wanted nothing to do with anything in the United States, that is what I consider his testimony to be.

Gentlemen, with that ruling, I am going to rule that I am not going to permit counsel to go into the details of his investigation or other matters.

MR. BIERMAN: For clarification, your Honor, will counsel be permitted to argue that Morales was involved in local bombings?

THE COURT: He cannot argue that he was involved. He can argue certainly that he was arrested and charged with a local bombing and that charge has never been tried and the case has been continued and it has never been brought to trial. That is what the facts in this case hold so far as I am concerned.

Now, as I say, the man's guilt or

Brodie - cross

innocence has never been decided by anybody, but certainly he has been arrested, which is an admitted fact. He has been charged with a bombing, which is an admitted fact. He has not been tried as of yet, which is an uncontradicted fact.

MR. GREENSPAHN: Your Honor, I will resume cross examination on the points covered on direct after our break, but may I have the Court's permission to speak with Mr. Brodie after today's proceedings?

THE COURT: You have my permission to speak with him now.

We will be in recess for another five minutes.

(Thereupon a short recess was had, pursuant to which the following proceedings were had in the presence of the jury:)

THE COURT: All right, Mr. Greenspahn. You may proceed.

BY MR. GREENSPAHN:

Q Mr. Brodie, you identified several

Brodie - cross

sticks of simulated dynamite, and you have commented that the small stick was essentially the same size as when you first found it?

A Yes, sir.

Q Was the wrapping on the several sticks of simulated dynamite the same or was it in any way different than it is now?

A It is discolored now.

Q To what do you attribute that discoloration?

A I don't know.

Q If I understand you correctly, you indicated that this object that has now been introduced in evidence was found at the starboard bilge? Do you recall that?

A Which one is that?

Q The large cylindrical metal tank.

A That may have been Officer Zehnder's testimony.

THE COURT: That is right. He did not testify previously where it was found. The other officer testified where he found it.

Brodie - cross

BY MR. GREENSPAHN:

Q Do you know of your own knowledge where this thing was found?

A I pulled it in.

Q Where were you standing when you pulled it in?

A Amidships directly underneath the stack next to the engine room. I was on the port side.

Q You were on the port side?

A Yes.

Q Is this the vessel--referring to Government's Exhibit No. 50--that the object was pulled up onto?

A It may have been. I can't tell for sure.

15-1

Q All right. What else, if anything, do you recall finding within the cylinder that has now been identified by you other than the six sticks of simulated dynamite, the small apparatus that you saw, and the gasket which you identified?

A Foam rubber and newspaper.

Q Do you know whether the small plastic

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Brodie - cross

box and the device inside of it were any way activated prior to the time that you first saw it?

A Yes.

Q Was it activated?

A Yes, it was.

Q Do you know, sir, when it was activated?

A No, I do not.

Q Do you know, sir, after making a thorough study of the plastic box and its contents and the cylinder and its contents, whether or not there was any action of any sort involving the box, its contents, the cylinder or its contents prior to the time that it became attached to or otherwise connected to the vessel the LANCASTRIAN PRINCE? In other words, in point of time, can you tell whether or not that object in the box on the LANCASTRIAN PRINCE--whether the small box and the machinery therein were activated?

A I don't know how soon beforehand, no. Is that the question?

Q Yes.

A That it had been activated? No, I

Brodie - cross

don't.

Q As a factual matter and based upon your personal knowledge only, do you know whether or not that had been activated while it was on or attended to the LANCASTRIAN PRINCE or prior to the time that those objects came together with the LANCASTRIAN PRINCE?

A I don't know the time, no, sir. I don't.

Q If I understand you correctly, you have no way of knowing whether that object came onto that vessel in the condition that it now appears or whether its condition changed while attached to a part of that vessel?

A I have an opinion that the blasting cap exploded because of the action of the relay device while the cap was inside of the can, but I can't tell when it did explode.

Q As far as you know, it could well have happened at a time prior to the time that that object in the box came into contact with or became attached to the vessel?

Brodie - cross

A Yes.

Q With regard to Government's Exhibit No. 67, the wadded up newspaper, do you recall the wadded up newspaper that was found in the cylinder?

A Yes.

Q Was it in the same condition when you first observed it as it appears now?

A No. It is discolored now. It is flattened out.

Q These are very fragile. Showing you Government's Exhibit No. 65, when you first observed that, what was the color of it?

A The ordinary color of newspaper--white with black printing on it, and had some ballpoint writing on it.

Q Was there any discoloration to the paper at all other than the natural black newsprint on the white paper?

A Not that I recall.

Q Was the paper dry or wet when you first observed it?

A Dry.

Brodie - cross

Q Do you recall what, if anything, you personally did or caused to be done under your control with regard to this newspaper at the time that you first became aware of its presence? What did you do with it?

A I removed the newspaper from the can the following day at the crime laboratory.

Q What did you do with the newspaper at that point?

A I flattened it out and read the dates on the newspaper and marked it for identification and had it photographed.

Q When you had it photographed, was the newspaper intact or was it in pieces?

A It had been torn. It was in pieces.

Q Was it photographed in pieces or was it photographed with the pieces aligning with each other?

A It was laid out flat on the ground and laid out with some of the pieces adjoining each other.

Q Was the paper brittle as it seems to be now?

Brodie - cross

A No, sir.

Q As you are handling it now?

A No, sir.

Q Did you, while aboard the CARIBBEAN VENTURE, find any objects which you could identify in the area of the engine room or in the area of the blasting or the explosive force?

A Yes, sir.

Q What objects did you find, sir?

A I found thin pieces of metal, steel, that appeared to have come from a bomb container.

Q Did you find any vestige of the container itself that was identifiable as a bomb container?

A From the appearance, in my opinion, that there had been a bomb container that had been very close to the explosion. It was not any part of the ship.

Q With regard to these fragments or these pieces, how would you describe them? Were they large pieces or were they small pieces?

A The pieces ranged in size, I believe,

Brodie - cross

from approximately eight inches down to about a half-inch.

Q You found these in the engine room area of the vessel?

A Yes, sir, along with the piece of brass and spring that was shown earlier.

Q When you went into the engine room, did you make any observations as to whether repairs had been undertaken of the hull in the area that the explosion took place?

A Yes, sir, they had.

Q What was the nature of the repairs that were made?

A A patch had been placed underneath the vessel so that the water could be pumped out.

Q What kind of patch was it? What substance?

A Plywood with bolts through it, hooks.

Q This was attached to the hull?

A Yes.

Q To your knowledge, was any work done that would have caused the fragmentation or the chipping

Brodie - cross

of the hull during the course of the repair work?

A No, sir.

Q Was there any indication as to the extent that you could see as to the extent of the damage that was done in terms of dimension to the hull? What were the dimensions of the area of the damage?

A The explosion had occurred on the outside of the hull and pushed in the area around two strainers on the starboard side of the ship. This area where the strainers are is known--there is a tank where the salt water comes in and goes through pipes. The top of this tank had been ripped open. It was up about three feet above the position where it should have been.

Q Did you have occasion to cause to be found or to be discovered a grille from the forward water intake?

A There were two grilles or strainers. One was recovered under water by a diver from a salvage company, and one strainer was found inside of the ship by the chief engineer.

Brodie - cross

Q At what place was it found, if you know, sir?

A This was approximately four or five feet forward of the damaged area; in between the tank top and the deck of the engine room.

Q Did you see that water strainer?

A Yes, I did.

Q What observation did you make of that?

A That an explosion had occurred on the outside of this strainer and forced it into the ship.

Q What physical markings, if any, did you note on the strainer itself?

A The strainer is bent inward and was ripped approximately nine inches long and approximately an inch wide.

Q Do you recall the color or the hue of the strainer itself?

A A maroon color.

Q Was that the natural metal or was that a paint, as you recall it?

A It was paint, as I recall it.

Q What observations, if any, did you

Brodie - cross

make referable to the paint on that strainer that was found inside the vessel?

A Isn't that what I just testified to, as to the color of that strainer?

Q Did you notice anything unusual about the paint other than the fact, of course, that it was interrupted where the crack or the split in the strainer was?

A I don't recall anything now.

Q Was there anything significant about the other strainer that was found underneath the vessel?

A It was bent, also.

Q Did you make any observations of anything unusual about either the paint or the strainer itself other than the fact that it was bent?

A No, sir, I did not.

Q Mr. Brodie, do I understand you correctly that in one instance one strainer was thrown in a forward or upward direction and the other one was thrown in a backward or downward direction?

A They both appeared to be thrown upward,

Brodie - cross

and one strainer then fell to the bottom of the ocean. That was the forward strainer. The rear strainer was blown inside of the vessel.

Q Do you have an opinion as to the nature of the explosive, whatever it may have been, that caused the damage to the CARIBBEAN VENTURE that you described?

A Yes, I do.

Q What was it, sir?

A The force was the equivalent to approximately 20 pounds of dynamite.

Q Do you have an opinion as to whether any other explosive source other than dynamite would have or could have in this instance produced the type of explosive reaction that was produced?

A Yes. It could have been another type of explosive--C-4--Pentolite--TNT. However, from the push effect that it had it is more likely to have been dynamite.

Q When we talk about a strainer, are we talking about an intake grille? Is that the same thing?

Brodie - cross

A Yes.

Q Did you receive from the crew or the management of the vessel either of the two strainers for the purpose of laboratory examination?

A Yes, I did.

Q Did you have any difficulty in getting that?

A Yes.

Q What was the nature of that difficulty?

A The ship's captain said that, as far as he was concerned, I could have them. As for the forward strainer, Mr. Bird, who was from the salvage company, wanted the forward strainer and he kept it.

Q Did you observe the vessel POLANICA?

A Yes, I did.

Q Did you do anything other than work in and about that vessel in connection with the incident occurring to the POLANICA? In other words, did you do any work on this case anywhere else but aboard the POLANICA?

A Yes, I did.

Q At what place, sir?

Brodie - cross

MR. BIERMAN: Mr. Greenspahn was asking about the grille. So we thought we would bring it down to save some questions.

THE COURT: The next time the Government wants to offer something, I wish they would apprise the Court of it before they start bringing stuff in.

BY MR. GREENSPAHN:

Q Mr. Brodie, is this the water intake that we were talking about? And, if so, we are talking about two of them. Which one is this?

A I don't see my identifying marks.

MR. GREENSPAHN: I am sure he can do it quite well by himself without your help, Mr. Crane.

THE COURT: All right, sir.

A This appears to be my mark. That appears to be the strainer, but with the grease on there it is hard to see the mark.

Q Was this water intake strainer in essentially the same condition when you last saw it and when you placed your mark on it?

A Yes, it is. It may have--I believe it

Brodie - cross

is.

Q Was it as greasy as it is now?

A It was greasy. I don't recall how greasy it was.

Q Which, if you can show us, is the exterior and which is the interior side of the strainer?

A This is the exterior and this is the interior. This is the convex side which is the interior and the concave side is the exterior.

Q What objects, if any, did you find at the immediate side of the POLANICA when you conducted your examination?

A The following day underneath the ship I dragged a magnet and recovered fragments of steel.

Q How large were the fragments and how many were there?

A There were approximately 50 fragments, and they ranged in size from approximately one inch down to about an eighth of an inch.

Q You say the largest was about an inch?

A Yes.

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Brodie - cross

Q What metallic substance were they?

A They were steel on the day of the explosion. Officer Zehnder recovered a piece of aluminum material that he gave to me.

Q Were you able to identify the fragments that you discovered?

A They were--I have an opinion.

Q I want more than an opinion. Were you able to identify them?

A (No response)

Q Let me put the question to you another way. Were they from the hull of the POLANICA?

A No, sir.

Q Do you know for how long a period of time these fragments had been at the bottom of the channel at the place where the POLANICA was berthed?

A No, I do not.

MR. GREENSPAHN: I have no further questions of Mr. Brodie. Thank you.

MR. MORRIS: No redirect, your Honor. I would offer the intake grille into evidence.

MR. GREENSPAHN: I don't think it is

material or relevant, your Honor. I think it is awfully heavy.

THE COURT: Are you offering that thing?

MR. MORRIS: I offer the intake grille as a Government's exhibit, your Honor, but I have no strong feelings on it.

THE COURT: Well, in view of the fact that there has been extensive testimony about it, I will admit it in evidence. I will note an objection for the defendants and will overrule the objection and admit the article in evidence.

(Thereupon the grille referred to was received in evidence as Government's Exhibit No. 70.)

THEREUPON--

JOSEPH C. FRECHETTE,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: Joseph C. Frechette,

Frechette - direct

F-r-e-c-h-e-t-t-e, Special Agent, FBI, 3801 Biscayne
Boulevard.

DIRECT EXAMINATION

BY MR. KLEIN:

Q Mr. Frechette, I call your attention
to October 11, 1968. Were you on duty on that date?

A Yes, sir.

Q I call your attention to the morning
of October 11. Were you on duty then?

A Yes, sir.

Q Where in particular were you?

A I was at that time at 218 Southwest
16th Avenue, Miami, Florida.

Q Whose residence is that?

A Aimee Miranda Cruz.

Q Did you have anything with you at that
time?

A Yes. I had a search warrant.

Q Did you conduct a search at that time?

A Yes.

Q I am going to show you what has been
marked into evidence as Government's Exhibit 24.

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Frechette - direct

Are you familiar with that?

MR. GREENSPAHN: If it please the Court, I am going to object to anything that this witness may have to offer inasmuch as his acts come after the rendition of the indictment and they come after the period of time that is set forth in the indictment as the time of the alleged offense.

THE COURT: I am going to overrule the objection.

MR. GREENSPAHN: Thank you, sir.

BY MR. KLEIN:

Q Are you familiar with that exhibit?

A Yes, sir.

Q What is your familiarity with it?

A I took this out of that residence.

Q At that time on that morning?

A Yes, on that morning.

Q Did you make any markings on it in any way?

A Yes, sir, I did.

Q Where does your mark appear?

A My mark is on the tape; and this is

Frechette - direct
also mine (indicating).

MR. KLEIN: Nothing further at this time.

THE COURT: Is there any cross examination?

MR. GREENSPAHN: No, sir. But I would ask leave of the Court for the right to cross examine later on this witness.

MR. KLEIN: We are planning on excusing him. If you wish to recall him as your own witness, we will have him available.

MR. GREENSPAHN: No questions.

THE COURT: All right, sir. You may step down.

(Witness excused)

THEREUPON--

BERNARDO M. PEREZ,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

DIRECT EXAMINATION

BY MR. KLEIN:

Q Please state your full name.

Perez - direct

A Bernardo M. Perez, Special Agent with the FBI.

Q I call your attention to October 11, 1968. Were you on duty at that time?

A Yes, sir, I was.

Q Where were you on duty on that particular day?

A I was on duty at the residence of Jose Diaz Morejon.

Q What were you doing there?

A I was waiting to be given the signal to arrest him.

Q Did you subsequently arrest him?

A I did, sir.

Q What else did you do at that time?

A At that time we conducted a search incident to an arrest of his apartment.

Q Where did you arrest Mr. Diaz Morejon?

A At the front door of his living room.

Q And you subsequently conducted a search?

A Yes, I did.

Q I am going to show you certain objects and ask you if you are familiar with these.

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Perez - direct

A Yes, sir, I am.

Q What is your familiarity with those objects?

MR. GREENSPAHN: If it please the Court, I move to suppress each and every item that is being presented to this agent.

If the Court will entertain argument in the presence of the jury, that is fine. If not--

THE COURT: No, sir. We will excuse the jury for a few minutes.

Ladies and gentlemen, excuse us for a few minutes.

(Thereupon the jury was excused, pursuant to which the following proceedings were had out of the presence of the jury:)

THE COURT: You can dictate your motion in the record now.

MR. GREENSPAHN: Yes, sir, your Honor. The defendants would severally move that all exhibits to be identified and offered in evidence for the Government by Mr. Perez be at this time suppressed

Perez - direct

inasmuch as the witness has testified that he presented himself on October 11 of this year, the day after the return of the indictment in this cause, at the residence of the defendant Morejon for the purpose of making an arrest and that he, thereafter, conducted a search incidental to an arrest. It is my understanding of the law that a search cannot be conducted solely for the purpose of discovering evidence to be used against a defendant during the course of trial; that there must be a proper predicate for such a search--either the probable cause that would initiate a search warrant by the Court or the commission of a felony grade offense in the presence of the officer, neither of which were the case in this instance. The sole purpose of Mr. Perez in making his search--and we would recount the items he now brings with him to this courtroom, was to aid in the prosecution of the cause. It is indeed strange to me that the Government would have fought and would have received from the Court on that very same day a search warrant for the apartment of two of the other defendants. But then without the benefit

Perez - direct

of such lawfully issued warrants, it took it upon itself to make a search of the apartment of a third defendant. I would respectfully move to suppress such proffered exhibits.

THE COURT: What does the Government say?

MR. KLEIN: He is mixing up the virility of the search initially with what was found afterwards. It is valid on each of those two bases.

THE COURT: His proposition is this: that the Government had ample time in which to obtain a warrant for this man's arrest; that they were staked out there for the purpose of executing that warrant, they executed that warrant and they arrested him and then, without obtaining a search warrant or anything else, conducted a search under the guise of being the result of the arrest which was an illegal and improper search to begin with. That is his situation, basically. And you cannot, under certain principles of law, incident to an arrest search a dwelling house for the purpose of obtaining evidence in order to sustain that arrest. That is counsel's

Perez - direct

position. Now what? Don't jump off on the proposition it was valid because I am not with you so far. Let's hear you sustain yourself.

MR. KLEIN: That will be the first question, whether or not we have a valid arrest.

THE COURT: No, sir. There is no question about the arrest. The question is whether, as a result of the arrest, you have a right to search this man's home.

MR. KLEIN: Well, if we have a valid arrest, then I submit that a search which is validly incidental to it and it turns up evidence, the mere fact that we have mere evidence is not the basis to vitiate the validity of that search. We have Warden v. Hayden, where the question of the turning up of mere evidence or where the search for mere evidence is valid. And subsequently, also, the holding of that particular case was it was included in the Omnibus Crime Bill, but we would rely on the holding in that case--Warden v. Hayden--where they held that the search for mere evidence was valid.

THE COURT: Well, I think perhaps we

Perez - direct

can maybe take a recess. Do you gentlemen have any objection to letting the jury go out and get a cup of coffee, because this will probably take twenty or twenty-five minutes?

MR. GREENSPAHN: No, sir.

THE COURT: Mr. Marshal, tell the jury we are going to be in recess for probably twenty to thirty minutes, and if they wish, they can go out and get a cup of coffee and come back here, as long as they are back in thirty minutes.

MR. GREENSPAHN: The authority for the proposition that I have asserted, Judge, is U. S. v. Lefkowitz, 285 U. S. 465; and U. S. v. Vega, 250 Fed. Supp. 429; and, of course, the cases that are cited in detail in the Lefkowitz opinion are the basis for our assertions in this regard.

THE COURT: All right, sir. As a preliminary to making the ruling, are there any questions you want to ask this witness with respect to the arrest or the search?

MR. GREENSPAHN: Yes, sir. I think it might be wise for me to do so.

Perez - direct

THE COURT: I think for the purpose of your motion you should be given that opportunity.

(Thereupon the following

interrogation took place out

of the presence of the jury:)

BY MR. GREENSPAHN:

Q Mr. Perez, were you at the Morejon apartment October 11th pursuant to an arrest warrant issued as a result of a grand jury indictment?

A I don't know about that, sir.

MR. KLEIN: Your Honor, he is asking for a legal conclusion.

THE COURT: He was there pursuant to a warrant for that man's arrest.

BY MR. GREENSPAHN:

Q Before you arrived there, sir, did you have any reason to believe with particularity that any of the objects which you ultimately recovered were there in and upon the premises?

A No, I did not.

MR. GREENSPAHN: I don't think I need any more than that.

MR. BIERMAN: Your Honor, it is a bit late for a motion to suppress, but we have testimony to present. And if the position is that they waited to find them at home as a guise and therefore that vitiated the search incident to the arrest, we are prepared to put on testimony showing that there were valid reasons for waiting until this morning hour, although the arrest warrant came out the preceding evening. We did not expect to find anything in particular, but we just searched incident to the arrest and, therefore, we did not get a search warrant. I am somewhat confused by the argument. If it is his argument that we waited to arrest him in his home for the sole purpose of searching it, we are prepared to meet that issue factually.

MR. GREENSPAHN: I have not raised that issue at all.

MR. KLEIN: Then I do not understand the guise issue. All searches are always made incident to an arrest, to secure the place for weapons and whatever else may be there.

THE COURT: Well, I am not so sure that that is necessarily true.

THE WITNESS: May I say one thing?

On this particular morning when we made this arrest, I speak Spanish and, therefore, I was the team leader. We knocked on the door for a few moments and no one answered. Finally a man inside did answer. I identified myself, I told him who I was and asked him if he understood. He said yes, he wants to see something. I showed him my badge through the window, asked him if he could see. He said yes. All during this time I was telling him to open the door and that he was under arrest, and he did not do it for approximately two or three minutes. We did not know whether anybody else was there, and after, when we did go in, we searched the whole apartment and we found these things.

BY MR. GREENSPAHN:

Q Was anybody else in there?

A No.

Q Did he resist your arrest?

A He did not open the door when I told him to, when I properly identified myself. -----

Q Within two or three minutes he did?

A He was standing at the door. I could

15-2

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

see him through the door, but he would not open it.

THE COURT: Would you mind, for counsel's benefit, restating specifically the basis of your objection?

MR. GREENSPAHN: The objection is predicated upon the proposition that a search for the purpose of acquiring evidence to be used in a prosecution against a defendant is not permissible merely because it is incidental to an arrest. There must have been probable cause; there must have been the issuance of a warrant or the commission of a felony grade offense at the time that the search was undertaken. That is what the Lefkowitz case concerned itself with.

MR. KLEIN: We will rely on the two citations we have given.

THE COURT: All right, gentlemen. I will go take a look at all four of them. We will be in recess for about fifteen to twenty minutes.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had out of the presence of the jury:)

THE COURT: Gentlemen, in ruling on the motion, the Court's ruling is based primarily upon the matters set forth in *Amador Gonzales versus United States*, 319 Fed. 2d 308, where the Fifth Circuit states that a search incident to an arrest must have as one or more of its purposes the discovery (1) the fruits of the crime; (2) the instruments used to commit the crime and (3) weapons or like materials which put an arresting officer in danger or might facilitate escape or (4) contraband, the possession of which is a crime; and by a recent decision of the United States, material which constitutes evidence of a crime or evidence that the person arrested has committed it, citing *Warden v. Hayden*, 387 U. S. 294, and the law set out by the Supreme Court in *Harris v. United States*, 331 U. S. 145, in which the Supreme Court holds that a search incidental to an arrest may, under appropriate circumstances, extend beyond the person of the one arrested to the premises under his immediate control; and that a search incidental to an arrest which was otherwise reasonable is not rendered invalid by the fact that the place searched is a dwelling rather

than a place of business, nor is it rendered invalid by the fact that it extends beyond the room in which the accused person was arrested.

The Court finds, upon the showing made before it, that the search in question was not an unreasonable one nor one that was more extensive than was reasonably demanded under the circumstances, and the motion to suppress is therefore denied.

All right, gentlemen. Bring in the jury and please proceed.

(Thereupon the following proceedings were had in the presence of the jury:)

BY MR. KLEIN:

Q Mr. Perez, I had asked you just before the recess when and where you saw those particular items. Where did you get them?

A These items were--

THE COURT: They were obtained by him as a result of the search of the premises at which the arrest was made incidental to the arrest of the person for whom the warrant was issued. Let's go.

Perez - direct

BY MR. KLEIN:

Q Would you describe each one?

A This material here appears to be an insulation material which was found in the apartment. And from this material there is a circular section that has been cut.

In this little can on top I placed three non-electrical detonators, blasting caps, and these were found also in the apartment.

This is a piece of paper in which the three non-electrical blasting caps were wrapped, and it was labeled "Detonators."

This is a piece of metal with a wire through it, which we found also in the apartment. And this is a Xeroxed copy of a list of--entitled "Movement, Port of Miami, Daily Dock Report," and it shows the name of the ships and the ports of call, dates in and out of the port.

Q Is there anything on there circled that you can see?

A Yes, there are several.

MR. GREENSPAHN: If it please the

Perez - direct

Court, that is not relevant or material to this proceeding. If the Court would look at the exhibit, the Court I am sure would agree that it does not pertain to any period charged in the indictment, and I would object to it.

THE COURT: I am going to overrule the objection.

Go ahead, sir.

A On this mimeographed sheet of paper, Item No. 35 says "Polancia." That is the name of the ship. And it says "(Polac Comunista)" and then over here under the "Flag" the word "Pole" is also encircled.

Q What is your reason in picking up these objects?

A Because I knew that the ships in and around Miami had been bombed; bombs had been placed on them, and I thought this might have some bearing on that.

Q Was that particular sheet that you are holding in your hand in that condition when you found it?

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Perez - direct

A No, sir, it was not, not exactly.

Q What kind of condition was it in?

A It was completely white, whereas it is discolored now. In the back and front it is discolored.

THE COURT: Why is it discolored, do you know?

THE WITNESS: Yes, sir. I believe it has been treated for fingerprints by our laboratory.

MR. KLEIN: I offer these into evidence at this time. And you may inquire.

Perhaps we can just offer the entire box as a composite exhibit, except that I would like this particular sheet separate. It may be easier that way.

(Thereupon the box referred to was received in evidence as Government's Exhibit No. 71 and the Daily Dock Report was received in evidence as Government's Exhibit No. 71-A.)

THE COURT: I think you had better mark

Perez - direct

each one of them separately. I will note an objection to all of the documents, I will overrule the objections as to the first three constituting detonating caps and the list of ships and what was the other? Not the insulating material. I will sustain the objection as to the metal and as to the insulating material at the present time.

MR. GREENSPAHN: Thank you, sir.

THE COURT: The reason I am sustaining it is that it has not been shown to have had anything to do with this case, with any of the documents or anything else. The fact that they found them in the house does not mean a thing in the world unless it is shown it has some relevancy to this case.

MR. BIERMAN: Your Honor, we have in evidence another item that can be shown or will show--

THE COURT: You had better show it then.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q With reference to Government's Exhibit 71-A, which is the port schedule for the Port

Perez - cross

of Miami, as you have identified it, can you tell us, sir, what the date of the port schedule is?

A Not from memory I cannot.

Q Let me show you the exhibit and let us see if you can refresh your memory.

A The date is May 13, 1968.

Q Do you know of your own knowledge when the POLANICA incident occurred?

A I cannot give you the exact date, sir.

Q It happened several months subsequent to May 13.

MR. KLEIN: I will object to counsel testifying.

THE COURT: All right, gentlemen. Do you object to him testifying now to simplify the thing, or will the Government stipulate it entered the port on a certain date?

MR. KLEIN: The date of entry into the port I don't know, but the incident occurred approximately September 15 or 16.

THE COURT: All right, sir. Now let's go ahead.

Perez - cross

BY MR. GREENSPAHN:

Q Did you note also other markings on the face of this dock report that is Government's Exhibit 71-A?

A Yes.

Q What markings did you note on there?

A I didn't make these markings.

Q Did you observe other markings at the time that you recovered this from Mr. Morejon's house?

A Yes. Item 37, "BETTY K IV." The flag is British. That was noted. And the "MEREGHAN IV," also with the British "Flag" encircled. And the "KIRKDALE," No. 39, has an "X" next to it, under the British Flag. And No. 40, "NICOLAS S. EMBIRICAS" with the word "GRIEGO" circled next to that.

Q What does that mean in Spanish?

A That means Greek. And the Greek "Flag" is encircled.

And No. 41, the FLORIDIAN, is completely written through. It was also a British Flag, which was circled.

Perez - cross

The "KIRK PRIDE," No. 43, has an "X" behind it. And also the British Flag. And the "BETTY K III," No. 44, is completely lined through. That is the British Flag, also.

Q Do you know of your own knowledge who made the encirclings, the editions, the markings on the face of this exhibit?

A No, sir, I do not.

Q With regard to Government's Exhibit 71-C, the small packages, do you know whose writing is appended on those packages?

A The top one is Special Agent Oertel.

Q Was there any writing that was on the objects at the time that you recouped them?

A No, sir.

Q When you opened up the boxes, did you see the objects themselves at the time that you made the recovery of them?

A I don't understand. What time are you talking about?

Q Did you know what was inside this box when you were in Mr. Morejon's house?

Perez - cross

A Those boxes were in Morejon's house.

Q Did you see these objects in question on October 11th?

A Yes.

Q Were you able to identify what they were?

A They were non-electrical detonating caps.

Q Had you ever seen non-electrical detonators before?

A Yes.

Q Where had you seen them, on how many occasions?

A Approximately three or four times near my home town.

Q Where is that?

A In California. It's a mining area.

Q Are these detonating caps or are these detonators unique objects or, in your experience, have you found them to be produced in mass quantities and used in industry?

A I cannot answer that, sir. I don't

Perez - cross

know.

Q With regard to Exhibit 71-B, was the writing on the--is this a piece of cloth or paper?

A No. That was brown paper, I believe, like a grocery store bag. This tape was on here. These are the initials of the agent. And the word "detonadoor" was only written on there at that time.

Q Do you know who put the writing on there at the time?

A No, sir, I do not.

Q Do you know if these detonadoors, as you call them, have been tested by any laboratory or any qualified person to determine whether or not they can be activated?

A Yes. They were exploded by our laboratory, the FBI Laboratory in Washington.

Q With the exception of yourself, how many other people that you know of handled any of these exhibits between the time you took them and the time they were examined at the laboratory?

A Special Agent Oertel and I both handled them.

Perez - cross

Q Did you package them and send them to the laboratory?

A Yes, sir, I did.

MR. GREENSPAHN: That is all I have, sir.

THE COURT: Redirect examination?

REDIRECT EXAMINATION

BY MR. KLEIN:

Q What was your object in taking the insulating material?

A We knew from our investigation that a bomb had been placed in a ship and this bomb had failed to detonate or explode, and material bearing this same trademark had been used as a gasket in making the bomb.

MR. KLEIN: I would like to re-offer this at this time, your Honor.

THE COURT: Do you want to ask him about this?

MR. GREENSPAHN: Yes, sir.

THE COURT: All right. Go ahead.

Perez - recross

RECROSS EXAMINATION

BY MR. GREENSPAHN:

Q You associated this object with a bomb, as you put it, on a ship? Which ship?

A I don't know offhand, sir.

Q Did you see any other piece of material that matched this material prior to the time that you took this material?

A No, sir. I had seen a photograph of it, however.

Q Do you know what this material is?

A It is insulating material, I believe.

Q Do you know what it is manufactured of, what its composition is?

A No, sir, I don't.

MR. GREENSPAHN: Your Honor, I think he is predicating his presumption and conclusion on the fact or on a fact he was not aware of and is jumping to a conclusion, and I do not think it is any more relevant or material now than it was before.

MR. KLEIN: I have no further questions of this witness.

LEONARD LAIKEN

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U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Perez -recross

THE COURT: I am still going to sustain the objection to it on the basis that while this officer had certain reasonable grounds to seize it at the time that he did and the seizing of it was valid, there still has not been shown any valid connection between the use of this material and the offenses for which these defendants are being charged. He was just acting on information which he considered to be reliable at the time he acted. He had no personal knowledge of it.

(Thereupon the witness was
excused.)

THEREUPON--

MICHAEL E. CRANE,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: My name is Michael E.
Crane, C-r-a-n-e, 3801 Biscayne Boulevard, Miami,
Florida. I am a Special Agent with the Federal Bureau

Crane - direct
of Investigation.

DIRECT EXAMINATION

BY MR. KLEIN:

Q I call your attention to October 11, 1968. Were you on duty at that time?

A Yes, sir, I was.

Q Where was that?

A I was at 297 Northwest 48th Place, Miami, Florida.

Q Did you have anything with you at that time?

A Yes. I had a search warrant.

Q To whom did those premises belong, if you know, or who resided there?

A The premises at the time were occupied by Orlando Bosch Avila and his family.

Q I will show you a document and ask you if you have any familiarity with that.

A Yes, sir, I do recognize this document.

Q Where did you first see that?

A I first saw it on the morning of October 11, 1968, at the aforementioned address.

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U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Crane - direct

Q What is that document?

A It appears to be a packing slip from the Jaidinger Manufacturing Company, Inc., 1921 West Hubbard Street, Chicago, Illinois.

Q What is it for?

A (No response)

Q Never mind. I will withdraw the question. It speaks for itself.

MR. KLEIN: I will offer this into evidence as Government's Exhibit No. 72.

MR. GREENSPAHN: At the time that Mr. Jaidinger was here, I indicated to the Court that this looked like it was a carbon copy. And my objection is that it is a duplication of evidence here. If there is the original and this is the copy, it seems foolish to have both of them in evidence at the same time to clutter up the record which is becoming more cluttered by the moment. The Court allowed the copy in and it has been marked as an exhibit. I would think that it would perhaps be better practice at this point to either substitute the original for the copy rather than to receive both of

Crane - direct

them.

THE COURT: It is being offered for two different purposes. One was for the purpose of showing that it was shipped and the other was for the purpose of showing it was received.

MR. KLEIN: That's correct.

THE COURT: I will overrule the objection and admit the document into evidence.

(Thereupon the document referred to was received in evidence as Government's Exhibit No. 72.)

MR. KLEIN: I have nothing further.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Crane, did you send the document that you have just identified to the laboratory for any type of work-up?

A No, sir.

MR. GREENSPAHN: I have no further questions.

THE COURT: Thank you, sir. You may be excused.

Crane - direct

(Witness excused)

THEREUPON--

MICHAEL P. DOOHER,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: Michael P. Dooher,
Special Agent, Federal Bureau of Investigation,
3801 Biscayne Boulevard.

DIRECT EXAMINATION

BY MR. KLEIN:

Q Were you on duty on October 11, 1968?

A Yes, sir.

Q Where?

A 297 Northwest 48th Place.

Q Who resides in those premises, do you
know?

A Dr. Orlando Bosch.

Q What did you do at that time?

A I conducted a search of the residence

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Dooher - direct
pursuant to a search warrant.

Q What did you find? I will allow you to peruse some of these objects, if you will.

A May I use these notes to refresh my memory?

Q You may use any notes of your own to refresh your recollection.

Will you pick out and describe those things that you found?

A First, a small coil of yellow electric wire. Second is a cone-shaped head of metal which appeared to be part of a bomb head.

MR. GREENSPAHN: Objection and move to strike, your Honor.

THE COURT: I will sustain the objection as to what it appeared to be as being an opinion and conclusion of the witness and having no evidentiary value at this time. And I will instruct the jury to disregard that statement.

All right, sir.

A (Continuing) A metal roller that came from the cone-shaped object; a strobe signaling device.

Dooher - direct

BY MR. KLEIN:

Q I have some documents here. Let's see if you are familiar with any of those documents, please.

A Yes, sir. "Declarations of Dr. Orlando Bosch," written in Spanish.

Q What is your familiarity with that?

A I seized it from the residence.

Q What else?

A An article entitled "DEL PODER CUBANO A LA OPINION PUBLICA," another item which I seized.

Q All right.

A A photograph of the MIKAGESAN MARU with the statement "FOTO: SERVICIO INTELIGENCIA PODER CUBANO."

Q Does that bear any markings or initials that are yours?

A Shall I take it out?

Q Yes. Go ahead.

A No, sir.

MR. KLEIN: I will offer these into evidence at this time.

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Dooher - direct

One more item. What other item did you find?

A. A one-quart carton of baralyne absorbent granules.

Q. Talking about this?

A. Yes.

Q. Do any markings of yours appear on this?

A. Yes, my initials and the date up here on the package.

MR. KLEIN: No further questions.

MR. GREENSPAHN: Are you offering all of these?

MR. KLEIN: Yes, sir.

MR. GREENSPAHN: As to the object I hold in my hand, your Honor, it is in Spanish. I don't know what it says. Therefore I can't state whether it is material or irrelevant or not. I don't think anybody else in the courtroom at the moment can.

THE COURT: That is Exhibit 73-A?

MR. GREENSPAHN: Yes, sir. The same holds true again for the object I hold in my hand,

Dooher - direct

Exhibit 73-B. And finally, the photograph: As to relevancy and materiality, it is objected to.

THE COURT: The objections are overruled. The documents and photographs are admitted into evidence.

(Thereupon the exhibits referred to were received in evidence as Government's Exhibits 73-A, 73-B and 73-C.)

THE COURT: Does the Government have translations of these documents?

MR. KLEIN: Your Honor, later on we will have to sort through them and we will either have a translation or we will have an interpreter that will translate all of these.

THE COURT: Well, I am not concerned right now with the presentation of any of it to the jury, but counsel has indicated he does not speak Spanish, he is not familiar with Spanish, and I want him to have an opportunity to know what is in there tonight so he will be advised. The Government can stay with him if he wants to, but I want him to have

Dooher - direct

an opportunity to get with his interpreter and have his interpreter read them to him so he will know precisely what is in there. I want a translation furnished to him at the earliest possible time.

MR. KLEIN: I do not want to go into this in the presence of the jury, but I believe we have given him all these.

THE COURT: You can tell him and show him what you are giving him, but I want him to know what is in it.

BY MR. KLEIN:

Q Mr. Dooher, are any of these other documents or objects familiar to you?

A Yes, sir.

Q Any of the documents?

A This "DECLARACIONES DEL PODER CUBANO."

Q You have your own notes before you.

Is that listed in your notes there?

A Yes, sir, it is.

Q That is listed under what number?

I will offer this in evidence, also.

THE COURT: If counsel makes the same

Dooher - direct

objection, the Court will make the same ruling. The document is admitted in evidence as a Government's exhibit. And I want the same thing to be true with respect to this document.

(Thereupon the instrument referred to was received in evidence as Government's Exhibit 73-D.)

MR. KLEIN: I started to say I was going to make him available for cross examination, but he can't testify as to the contents, either. So it does not make any difference.

MR. GREENSPAHN: Your Honor, in the matter of the confusion, are these things marked for identification?

THE COURT: They have not been admitted in evidence, so there will not be any question about it.

MR. KLEIN: They are not admitted at this time?

THE COURT: No, I have not admitted that in evidence because there has been no sufficient foundation laid. It is nothing but an expression of